

STATE OF SOUTH CAROLINA

PY 2007 EMERGENCY SHELTER GRANTS PROGRAM HANDBOOK (CFDA 14.231)



**OFFICE OF THE GOVERNOR
OFFICE OF ECONOMIC OPPORTUNITY
Edgar A. Brown Building
1205 Pendleton Street
Columbia, South Carolina 29201
phone: (803) 734-0662
fax: (803) 734-0356**

**Ashlie Lancaster
OEO Director**

**Bertie McKie
Senior Manager**

**Margaret Gibson
Program Coordinator**

**Serdaria Bouknight
Program Coordinator**

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SECTION I: GENERAL INFORMATION

1. **PURPOSE**

The Emergency Shelter Grants Program Handbook serves as a guide to units of local government and nonprofit organizations participating in the State-administered Emergency Shelter Grants Program (ESGP). This Handbook describes the ESGP and outlines the State of South Carolina's operational procedures for administering the program. **This handbook does not replace the regulations contained in 24 CFR Part 576, and subsequent amendments, or any other applicable Federal, State and local laws, ordinances and regulations pertaining to the Emergency Shelter Grants Program.** It simply highlights and emphasizes grant requirements. Subgrantees must always refer to the regulations and the Grant Agreement in determining what is allowable under ESGP.

The Emergency Shelter Grants Program is administered by the Office of the Governor, Office of Economic Opportunity. The Director is Ashlie Lancaster. The Senior Manager is Bertie A. McKie. The ESGP Grant Coordinators are Margaret Gibson and Serdaria Bouknight. Questions pertaining to the administration of the program may be directed to Ms. Lancaster, Ms. McKie, Ms. Gibson, or Ms. Bouknight at the following address:

**State of South Carolina
Office of the Governor
Office of Economic Opportunity
1205 Pendleton Street
Columbia, South Carolina 29201
or by calling (803) 734-0662**

2. PROGRAM DESCRIPTION

The South Carolina ESGP exists to provide housing assistance to the State's homeless population through community-based shelters that provide an array of services designed to meet the needs of homeless persons throughout the State. The program is designed to accomplish the following:

- to help improve the quality of existing emergency shelters for the homeless;
- to help make available additional emergency shelters;
- to help meet the cost of operating emergency shelters;
- to provide certain essential services to homeless individuals so that these persons have access to a safe and sanitary shelter and to support services and other types of assistance; and
- to alleviate the problem of homelessness through the funding of preventive services and activities and the provision of financial assistance to those "at risk" of becoming homeless.

While meeting the immediate housing needs of the homeless is the program's primary objective, the comprehensive goal of the ESGP and other homeless assistance efforts is to prevent or alleviate homelessness and assist in preparing homeless persons for successful transition into permanent housing.

2.1 Emergency Shelter Grants Program

The Emergency Shelter Grants Program (ESGP) was first enacted under Title V of the US Department of Housing and Urban Development's (HUD's) Appropriation Act for the Fiscal Year 1987 and was fully established by the subsequent Stewart B. McKinney-Vento Homeless Assistance Act in 1988. The program is authorized by Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, 42 USC 11301, for the US Department of Housing and Urban Development (HUD) to make grants to states, units of general local government, and private nonprofit organizations for the rehabilitation or conversion of buildings for use as emergency shelter facilities for the homeless and the provision of support services to homeless persons. The McKinney-Vento Homeless Assistance Act has been amended on three occasions: 1988, 1990 and 1992. Each amendment introduced changes geared towards improving the services and programs for the homeless.

2.2 The Program's Clientele

The grant is intended to address the needs of the individuals and families who are homeless or at risk of becoming homeless. According to 42 U.S.C. 11302, the Federal government has defined 'homeless' to mean:

1. An individual who lacks a fixed, regular, and adequate nighttime residence, and;
2. An individual who has a primary nighttime residence that is either
 - a. A supervised public or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - b. An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - c. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term “homeless” does not include any individual imprisoned or otherwise detained under an act of Congress or a state law. **The State’s one-year goal for the number of homeless individuals to be served is at least 25,000.**

At-risk individuals include people who are at imminent risk of losing their housing because they are being evicted from private dwelling units or are being discharged from an institution and have no primary nighttime residence. **The State’s one-year goal for the number of at-risk households to be provided with preventive services such as rental assistance is 300 households.**

Note: The grant is also intended to address the needs of “*chronically homeless*” individuals, defined by the US Department of Housing and Urban Development (HUD) as:

An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more OR has had at least four episodes of homelessness in the past three years..

Furthermore, HUD defines a “*disabling condition*” as:

A diagnosable substance abuse disorder, serious mental illness, developmental disability or chronic physical illness or disability including the co-occurrence of two or more of these conditions. A disabling condition limits an individual’s ability to work or perform one or more activities of daily living.

Subgrantees are required to ensure that their clients meet the prescribed HUD definition. Intake forms and client files will be reviewed during monitoring visits to ensure compliance with the definition.

2.3 Grant Amounts and Limitations

The amount of \$1,491,489 represents the State’s allocation for the Program Year 2007. In order to address the needs of the homeless throughout the State, Request For Applications were sent to all units of local government and nonprofit organizations addressing the problem of homelessness. Programs are funded on the basis of the application submitted to the Governor’s Office of Economic Opportunity in an effort to promote a continuum of care throughout the State.

2.4 Local Match Requirements

Federal regulations governing the Emergency Shelter Grants Program require a dollar-for-dollar local match. Match may either be in the form of a cash contribution or in other donated resources such as buildings, food, equipment and volunteer services. Volunteer services will be computed at \$5 an hour. [Note: Volunteers providing professional services such as medical or legal services are valued at the reasonable and customary rate in the community.]

While match revenue can be generated in a variety of forms as indicated above, the expenditures of matching funds must be for ESG eligible activities. For example, match may be cash donations; however, this cash must be utilized for ESG allowable activities such as shelter operations, preventive services, and essential services. In the case where cash match is utilized to pay salaries

either wholly or in part, timesheets must substantiate hours worked on allowable ESG activities.

Localities are advised that they are solely responsible for meeting the program's match requirements for their proposed project(s). **Certification that matching funds have been secured and expended must accompany each Request For Reimbursement (ESG Form 3 dated 06/07) in the amount of the request for ESGP funding at the time of submission. Subgrantees cannot use prior years match for subsequent years or match used for other grants.**

Matching funds must be reflective of the grant period. The State will not assume any financial responsibility on behalf of the applicant or subgrantee where matching dollars are concerned.

2.5 Waiver of Local Match Requirements

Section 832 of the 1990 Cranston Gonzales National Affordable Housing Act allows for a waiver of the match requirements for up to the first \$100,000 of a State's allocation for applicants who are **least capable** of leveraging local resources to meet ESGP matching requirements. To implement this change, the State has designed the following guidelines to enable those organizations with a documented incapability to participate in the Emergency Shelter Grants Program:

1. The State may grant waivers of up to 20% of the match requirements (and possibly up to 50% in special circumstances) for applicants who have been approved for waivers based on the State's review of their Financial Needs Analysis (FNA).
2. In order to request consideration for a waiver, applicants must submit the following documents with their grant application:
 - a. A Financial Needs Analysis for the agency documenting the organization's current resources and inability to secure additional resources to meet matching requirements; and,
 - b. Certification from the unit of local government entity, which includes a statement that no local resources are available to the applicant.

Since only a limited proportion of the State's allocation can be exempted from the match requirements, and given that eligibility under the "least capability" criteria must be sufficiently established by the applicant, it is anticipated that only a few waivers will be granted per funding cycle.

2.6 Eligible Entities

The following entities are eligible to submit an application for funding under ESGP:

- Units of Local Government
- Nonprofit organizations

However, all private nonprofit organizations applying for funding must have the prior approval of the unit of local government in which the proposed project is to be established. Applications that do not meet this requirement will be considered non-responsive.

Religious organizations intending to participate in ESGP must comply with all the requirements of 24 CFR part 576.22 (b) and Executive Order 13279.

The definition of an Emergency Shelter is not restricted to those facilities that provide overnight sleeping accommodations. As a result, day centers and drop-in centers are eligible to receive ESGP funds for eligible activities.

2.7 Eligible Activities

Emergency Shelter Grants Program funds may be used for one or more of the following activities as stipulated in 24 CFR Part 576.21 and subsequent amendments relating to the establishment, maintenance, and/or services of an emergency shelter for the homeless:

1. **RENOVATION, MAJOR REHABILITATION AND CONVERSION—24 CFR 576.3 (only for buildings used as emergency shelter housing):** Renovations and minor rehabilitation means rehabilitation that involves costs of 75% or less of the value of the building before rehabilitation. Conversion and major rehabilitation means a change in the use of the building where the cost of the conversion and any rehabilitation costs exceed 75% of the value of the building. Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established. Subgrantees must follow all OEO procurement policies outlined in OEO Fiscal/Technical Assistance Memorandum F02-01-Revised, when procuring professional services. (See Appendices)

Depending upon the nature of the rehabilitation, buildings to be rehabilitated with ESGP funds may require an environmental review after the project has been approved. The environmental review process can take up to 90 days to be completed. **Environmental review must be completed for the extensive repair or replacement of items that HUD considers to be fixtures of a structure. A fixture is an object that is physically attached to the building and cannot be removed without damage to the building, and includes systems designed for occupant comfort and safety such as HVAC, electrical or mechanical systems, sanitation, fire suppression, and plumbing. Fixtures also include, but are not limited to, kitchen cabinets, built-in shelves, toilets, light fixtures, staircases, crown molding, sinks, and bathtubs. Likewise the addition of any of these items to a structure where they did not previously exist will also require an environmental review.**

Note: Lead-based paint work is a renovation/rehab/conversion activity.

Ineligible rehabilitation or renovation costs include:

- Acquisition of real property
- New construction
- Property clearance or demolition
- Rehabilitation administration
- Staff training or fund raising activities associated with rehabilitation
- Building maintenance and repairs (See Operations)

2. **ESSENTIAL SERVICES—24 CFR 576.3:** Provision of essential social services includes (but is not limited to) services concerned with employment, physical and mental health, client assistance payments for the specific purpose of assisting in establishing a household, for clients in the shelter, substance abuse, or education, including the staff salary necessary to provide such services. Salaries charged must be for ESG activities only. Subgrantees must provide staff name, title, and position descriptions for any salary or partial salary charged to this grant category. The grant amount provided to a nonprofit organization or a unit of general local government may be used to provide an essential service only if:
- A. The service is either a new service or a quantifiable increase in the level of service above that which the unit of local government (or in the case of nonprofit organizations, the unit of local government in which the proposed activities are located) provided with local funds during the 12 calendar months immediately before it received initial ESGP funds; and
 - B. Not more than 30% of the total of each grant amount provided to a nonprofit organization or a unit of local government can be allocated for these services (whether or not the unit of local government provides some or all of these grant funds to a nonprofit recipient). Financial assistance payments under essential services are allowed on behalf of homeless individuals only.

Ineligible essential services costs include:

- Existing services and staff (services must be new or provided to more persons)
- Salary of case management supervisor when not working directly on participant issues
- Advocacy, planning, and organizational capacity building
- Staff recruitment/training
- Transportation costs not directly associated with service delivery

Please note that when providing essential services to assist a homeless family in establishing permanent housing, a copy of the lease/rental agreement must be available in the client file as well as copies of any bills paid either in full or in part utilizing ESG funds.

3. **PREVENTIVE SERVICES—24 CFR 576.3:** Provision of Preventive Services cannot exceed 30% of the grant amount. ESG funds for homeless prevention must be expended within 180 days of the start of the grant period (by December 27, 2007). Preventive Services are services designed to prevent the incidence of homelessness. This may include, but is not limited to, the following:
- a. Short term subsidies to defray rent and utilities. (A copy of the eviction or cut-off notice must be maintained in the client file.)
 - b. Security deposits or first month's rent only for the purpose of preventing a family from becoming homeless by allowing them to move into an apartment. (A copy of the rental agreement must be maintained in the client file.)
 - c. Mediation programs for landlord-tenant disputes.
 - d. Legal services programs for the representation of indigent tenants in eviction proceedings.
 - e. Payments to prevent foreclosure on a home.

- f. Other innovative programs and activities designed to prevent the incidence of homelessness.

Financial assistance payments under preventive services is allowed only for non-homeless individuals.

Consistent with legislative intent, the State intends to provide the maximum amount of flexibility to localities in designing programs to prevent homelessness. However, the following statutory criteria (24 CFR 567.21(a)(4)) apply to the extent that ESGP funds are to be used to provide financial assistance to families that have received eviction notices or notices of termination of utility services:

- A. The inability of the family to make the required payments must be due to a sudden reduction in income (i.e., sudden unemployment);**
- B. The assistance must be necessary to avoid eviction of the family or termination of utility services to the family;**
- C. There must be a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and**
- D. The assistance must not supplant funding for pre-existing homeless prevention activities from any other sources.**

In implementing these statutory criteria, the US Department of Housing and Urban Development and the State offer the following guidance:

Homeless prevention assistance is available to “families” who meet the eligibility criteria. HUD interprets “families” to also include one-person families.

The third criterion requires that there be a reasonable prospect that the family will be able to resume rental or utility payments “within a reasonable period of time”, as determined by the ESGP subgrantee (locality). Hence, this will not be uniform, but will vary based upon conditions within a particular jurisdiction and individual circumstances as evaluated by program staff.

The fourth criterion prohibits ESGP homeless prevention assistance from being used to supplant funding for pre-existing homeless prevention activities being provided by any other source, including federal assistance programs. In implementing this requirement, HUD will require ESGP assistance to be used either to implement new homeless prevention activities, or to provide a quantifiable increase in the level of homeless prevention activities already being provided from any other source.

Ineligible homeless prevention costs include:

- Housing/services to homeless persons
- Direct payments to individuals
- Long-term assistance beyond several months
- Application for Federal Funds

4. **OPERATIONAL COSTS—24 CFR 566.21(a)(3):** Payment of maintenance, operation, rent, repairs, security, fuels and equipment, insurance, audits costs (only if required by OMB), utilities and furnishings (for the shelter only), and any

necessary administrative staff costs associated with operation. Staff costs related to operations must be allocated under Operations on the “Staff Cost” line item on the OEO Budget Form. Staff costs including fringe benefits cannot exceed 10% of the total grant award. Subgrantees must provide staff name, title, and position descriptions for any salary or partial salary charged to this grant category. Costs charged under operations should be cost-shared among an agency’s other funding sources appropriately.

Purchases of equipment must be justified as a needed requirement of the emergency shelter’s continued operations. OEO procurement guidelines (see appendices) must be followed for all equipment purchased with ESGP funds and be retained for agency grant program purposes. The OEO must be notified of any intent to transfer, resell or dispose of equipment purchased with ESGP funds.

Ineligible operating or maintenance costs include:

- Repair or replacement costs associated with building fixtures (See HUD Memo in Appendices)
- Recruitment or on-going training of staff
- Depreciation
- Costs associated with the organization rather than the supportive housing project (advertisements, pamphlets about organization, surveys, etc.)
- Staff training, entertainment, conferences or retreats
- Public Relations or fund raising
- Bad debts/late fees
- Mortgage payments
- Direct assistance payments to clients

2.8 Ineligible Activities

The Emergency Shelter Grants Program funds may **not** be used for activities other than those stipulated under 24 CFR Part 576 .21, (Eligible Activities). For example, grant amounts may not be used for the following activities including, but not limited to:

1. Rehabilitation services performed by the staff of a subgrantee or recipient, such as preparation of work specifications, loan processing, or inspections; or
2. Renovation, rehabilitation or conversion of buildings owned by primarily religious organizations or entities, unless the conditions stipulated in 24 CFR Part 576.22 are met;
3. Conferences or training in professional fields such as accounting and financial management;
4. Salary of subgrantee’s executive director (except to the extent directly involved in carrying out eligible activities described above).

2.9 Performance

The grant period for the Emergency Shelter Grants Program is July 1, 2007—June 15, 2008. **The Emergency Shelter Grants Program’s grant period will not be extended beyond the grant period.**

All ESGP funds must be obligated within 180 days after the date on which the State made the funds available to the ESGP subgrantee and expended within the grant period of the date on which the State made the funds available. In the case of homeless prevention, as defined in 24 CFR Part 576.21, funds must be obligated within 30 days. **ESGP funds used for homeless prevention must be expended within 180 days of the date on which the State made the funds available.**

All projects must begin within sixty (60) days of the date of the grant award. **If the program has not started within sixty days of the award date without written and justifiable cause and written approval by the Grantee, the State reserves the right to rescind the grant award.** Start up is defined as a significant expenditure of funds **and is exhibited by the submission of Request(s) for Reimbursement** indicating overall satisfactory program progress. Funds not obligated/expended within the required periods will be recaptured by the State and redistributed to other eligible entities.

Performance also includes the timely submission of all reports and documentation requested in order to resolve all questions and concerns related to monitoring visits.

The State reserves the right to recapture Emergency Shelter Grants Program (ESGP) funds under the following circumstances:

- a. When subgrantees do not meet the performance requirements of the approved project;
- b. When subgrantees are unable to meet the deadline requirements as outlined in 24 CFR Part 576.55,
- c. When subgrantees, without appropriate justification, have failed to implement the project as set forth in their approved ESGP grant application and executed contract; or
- d. When subgrantees fail to properly maintain their facilities or when facilities are found to be unsafe for human habitation.

Applicants must submit a timetable outlining the tasks required for the accomplishment of project goals. **The timetable submitted will be used to monitor project performance.**

2.10 Use Requirement

Any building for which Emergency Shelter Grants Program funds are used for one or more of the eligible activities as defined in 24 CFR Part 576.21 a (1) Eligible Activities, or as defined in section 2.6, No. 1, must be maintained as a shelter for the homeless for not less than a three (3) year period. In the case of major rehabilitation or conversion as defined in 24 CFR Part 576.3, the shelter must be maintained for a period for not less than ten (10) years.

Lease agreements for an emergency shelter must be for the required time period. That is, either 3 years in the case of minor rehabilitation, or 10 years in the case of major rehabilitation. All applicants requesting funds for rehabilitation will be required to submit a copy of the lease agreement (or the proposed lease agreement) with their application.

The effective dates for the three (3) and ten (10) year periods begin to run as follows:

- * In the case of a building that was not operated as an emergency shelter for the homeless before receipt of ESGP grant amounts, the use requirement would begin on the date of the initial occupancy as an emergency shelter facility for the homeless.
- * In the case of a building that was operated as an emergency shelter before receipt of the ESGP grant amounts, the use requirement would begin on the date that the grant amounts are first obligated for the shelter.

Considering ESGP funds are awarded through a competitive process and funding for subsequent years is not guaranteed, subgrantees are encouraged to develop strategic plans for ensuring the continued operation of the shelter beyond the ESGP grant period in light of these use requirements.

2.11 Building and Habitability Standards

- Any building for which the Emergency Shelter Grants Program (ESGP) funds are used for renovation, conversion, or major rehabilitation must comply with the local government safety and sanitation standards, the uniform Federal Accessibility Standards Act 24 CFR Part 40, Appendix A, and the Americans with Disabilities Act. The US Department of Housing and Urban Development and the State of South Carolina require all subgrantees to exercise every reasonable effort to ensure the safety of the shelter environs, the homeless beneficiaries, and the employees. **As a result, the OEO requires that an inspection be performed by the unit of local government to ensure that the renovation was performed in accordance with all the building codes.**

In addition, the following are a number of basic standards to ensure that all ESGP-funded facilities are safe, sanitary, and adequately maintained:

- *Structure and Materials:* The shelter building should be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.
- *Access:* The shelter must be accessible, and there should be a second means of exiting the facility in the case of emergency or fire.
- *Space and Security:* Each resident should have adequate space and security for themselves and their belongings. Each resident must have an acceptable place to sleep.
- *Interior Air Quality:* Each room or space within the shelter/facility must have a natural or mechanical means of ventilation. The interior air should be free of pollutants at a level that might threaten or harm the health of residents.
- *Water Supply:* The shelter's water supply should be free of contamination.
- *Sanitary Facilities:* Each resident should have access to sanitary facilities that are in proper operating condition. These facilities should be able to be used in privacy, and be adequate for personal cleanliness and the disposal of human waste.
- *Thermal Environment:* The shelter/facility must have any necessary heating/cooling facilities in proper operating condition.

- *Illumination and Electricity:* The shelter/facility should have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There should be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
- *Food Preparation:* Food preparation areas, if any, should contain suitable space and equipment to store, prepare and serve food in a safe and sanitary manner.
- *Sanitary Conditions:* The shelter should be maintained in a sanitary condition.
- *Fire Safety—Sleeping/Common Areas:* There should be at least one working smoke detector in each occupied unit and all public areas of the shelter facility. In addition, smoke detectors should be located near sleeping areas and the fire alarm system should be designed for hearing-impaired residents.

2.12 Lead-Based Paint

The requirements of the Lead-Based Paint Poisoning Prevention Act (42 USC 4821-4836) and implementing regulations in 24 CFR Part 35 will apply. In addition, the subgrantee (or in the case of states, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

1. Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation, or conversion activity under this part; and,
2. Appropriate action must be taken to protect the shelter occupants from hazards associated with lead-based paint abatement procedures.

2.13 Environmental Review

The activities funded through the Emergency Shelter Grants Program should avoid or minimize adverse effects on the environment and should give preference to sites essentially free of hazards. Each unit of local government will be required to certify that any building improvements accomplished with ESGP grant funds do not affect historic property, flood plains, or endangered species. In addition, units of general local government will be administered in compliance with the requirements of 24 CFR Part 50. All proposed program activities are subject to the National Environment Policy Act (NEPA).

The environmental review procedures for the Emergency Shelter Grants Program are outlined in 24 CFR part 58. The environmental review responsibility is as follows:

- In the case of ESGP grants made to units of local government, the locality (county, town or city) will be responsible for the review;
- In the case of ESGP grants made to private nonprofit organizations, the State will be responsible for the environmental review;
- In the instance where a unit of local government distributes ESGP funds to a nonprofit organization (with the nonprofit being considered a “sub-subgrantee” of the State), the unit of local government is responsible for the environmental review.

Subgrantees are advised to adhere to 24 CFR Part 58 to assist in the environmental review procedure. An environmental review is required only when funds are requested in the **shelter rehabilitation budget category**.

2.14 Flood Insurance

No proposed site on which renovation, major rehabilitation, or conversion of a building is to be assisted under ESGP, other than by grant amounts allocated to States under 576.43, may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

1. The community in which the area is situated participates in the National Flood Insurance Program and the regulations thereunder (44 CFR Parts 59 through 79) or;
2. Less than one (1) year has passed since FEMA notification regarding such hazards; and
3. The subgrantee will ensure that flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973.

2.15 Assistance to the Homeless

Homeless individuals and families must be given assistance in obtaining:

- Appropriate supportive services, including permanent housing, medical/health services, mental health services, counseling, and other services essential for achieving independent living; and
- Other Federal, State, local and private assistance available to the homeless.

2.16 Homeless Involvement 24 CFR 576.56 (b)

Each subgrantee's policy on homeless involvement must consider the following:

1. Homeless Participation: The federal regulation at 24 CFR 576.56 (b) describes this participation as:

Participation 24 CFR 576.56 (b)

1. Each unit of local government and nonprofit recipient that receives funds under this part must provide for the participation of homeless individuals on its policymaking entity in accordance with 42 U.S.C. 11375 (d).
2. Each State, territory, unit of local government, and nonprofit recipient that receives funds under this part must involve homeless individuals and families in providing work or services pertaining to facilities or activities assisted under this part, in accordance with 42 U.S.C. 11375 (c) (7).

The regulation refers to the following sections of the statute:

Participation of homeless individuals 42 U.S.C. 11375 (d)

The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility services, or other assistance of the recipient

assisted under this part. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

Certifications on Use of Assistance 42 U.S.C. 11375 (c) (7)

Each recipient shall certify to the Secretary that...to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this part, in providing services assisted under this part, and in providing services for occupants of facilities assisted under this part.

2.17 Termination of Assistance 24 CFR 576.56(a)(3)

Subgrantees may, in accordance with 42 U.S.C. 11375 (e), terminate assistance provided by ESGP-funded activities to participants who violate program requirements. The termination, however, must allow for the due process of the terminated participant's rights. Each subgrantee is required to establish a formal process that governs the termination of assistance to a client and a grievance process.

Furthermore, it must be evidenced that these processes are effectively communicated to ESGP participants in client files.

2.18 Client Confidentiality

If family violence prevention or treatment services are offered under any project assisted with ESGP funds, each subgrantee must develop and implement procedures to ensure the confidentiality of such records. Furthermore, the address or location of any shelter for victims of domestic violence assisted under ESGP will be anonymous except upon written authorization from the person or persons responsible for the operation of the shelter for this information to be made public.

2.19 Fidelity Bond

Applicants must submit evidence of a current Fidelity Bond. The purchase of a Fidelity Bond is an allowable cost for ESG; however, the OEO will only approve a reimbursement not to exceed the grant's actual pro rata share of the bond. At a minimum, the shelter's executive director and bookkeeper must be bonded.

2.20 Independent Audit

All ESGP subgrantees shall submit documentation indicating fiscal year periods within sixty (60) days of the beginning of the grant period (August 29, 2008).

Upon expenditure of at least \$500,000 in federal funds within the agency's fiscal year, subgrantees will submit documentation notifying OEO that the single audit condition has been met. Along with this notification, the subgrantee shall submit a plan to procure the required audit or an explanation and evidence of a pre-existing contractual agreement with an audit firm or certified public accountant. This notification shall also include the cost proposed to be charged to ESGP and specify that a schedule of ESGP funding will be obtained. (Cost must have been included in subgrantee's approved budget or be accompanied by a budget revision request if within the allowed timeframe.)

Subsequently, all subgrantees required under Federal law to have a single independent audit shall submit a copy of the certified independent audit report within nine (9) months after the agency's fiscal year-end. Audits must be conducted in compliance with federal and state requirements and Government Auditing Standards established by the Comptroller General of the United States and Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants (AICPA). Submission of the report shall include:

1. Two (2) copies of the Independent Audit Report that includes an ESGP specific schedule, one bound and one unbound.
2. Any management letter resulting from the audit.
3. Information that may be pertinent to the grant.

OEO will perform a desk review to ascertain compliance with federal and state requirements and examine questioned costs and findings as outlined in the audit report.

2.21 Faith-Based Activities

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the ESG program. Neither the Federal government nor a State or local government receiving ESG funds shall discriminate against an organization on the basis of the organization's religious character or affiliation.

Organizations that are directly funded under ESG may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as a requirement of the ESG programs or services. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and **participation must be voluntary for the beneficiaries of the HUD-funded programs or services.**

A religious organization that participates in ESG will retain its independence from the Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use ESG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization.

An organization that participates in the ESG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

ESG may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. ESG may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, ESG may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to ESG in this part. Sanctuaries, chapels, or other rooms that an ESG-funded religious congregation uses as its principal place of worship, however, are ineligible for ESG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (See 24 CFR parts 84 and 85).

3. OTHER FEDERAL REQUIREMENTS

The Emergency Shelter Grants Program is administered in compliance with all the laws related to non-discrimination and equal opportunity. Each subgrantee must refer to the regulation and grant agreement for the applicable requirements.

3.1 Section 504 of the Rehabilitation Act of 1973 (Disabled)

Subgrantees must comply with Section 504 of the Rehabilitation Act of 1973 (The Act). Pursuant to the requirement of The Act, subgrantees must ensure that no otherwise qualified disabled person shall, solely by reason of their disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination, including discrimination in employment, in any program or activity that receives or benefits from Federal financial assistance. The subgrantee must also ensure that requirements of The Act shall be included in the agreements with and be binding on all of its subgrantees, contractors, subcontractors, assignees or successors.

3.2 Conflict Of Interest

In addition to conflict of interest requirements in OMB Circulars A-102 and A-110, no person who is an employee, agent, consultant, officer, or elected or appointed official of the Subgrantee, State recipient, or nonprofit recipient (or any designated public agency) that receives ESG funds and who exercises, or has exercised, any functions or responsibilities with respect to assisted activities or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a person or financial interest of benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, to the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The U. S. Department of Housing and Urban Development (HUD) may grant an exception to this exclusion as provided in 24 CFR Part 570.611 (d) and (e).

No elected or appointed State or Federal official shall be admitted to any share or part of this agreement, or to any benefit to arise from the same.

4. FINANCIAL MANAGEMENT STANDARDS

The financial management system used by the applicant is to provide for an annual audit, if required, in accordance with 24 CFR part 44 for Local Governments and private, nonprofit organizations are subject to the audit requirements in OMB Circular A-110 and OMB Circular A-133, as applicable, which states that,

“Subgrantees that expend \$500,000 or more in a year of Federal funds shall have a single or program-specific audit for that year. Entities that expend less than \$500,000 are exempt from federal requirements for that year, but all [financial and program] records are to be available for the grant period under audit for review by appropriate officials of the federal agency and the pass-thru entity [the State of South Carolina, Governor’s Office of Economic Opportunity].”

The subgrantee agrees to ensure the grant is administered in accordance with the requirements of this part and the guidelines and requirements for Local Governments

outlined in OMB Circular A-102 and A-87 as they relate to the acceptance and use of ESG funds, and for nonprofit organizations as outlined in OMB Circular A-110 and A-122 and all other applicable federal and state requirements in effect for the period for which it receives grant funding; to include OEO fiscal controls and accounting procedures.

By accepting this grant, the agency certifies that it has the proper internal controls and financial capability to undertake the planning, implementation and completion of program objectives, as outlined in the proposal and approved budget, and to provide full accountability for the available resources. Fiscal controls and accounting procedures must be sufficient to identify the source of grant funds, provide the required reports and permit the tracking of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

All pertinent grant records including financial, programmatic and supporting documents must be retained for five years after the subgrantee submits its final expenditure report to the OEO. If any litigation, claim negotiations, audit or other action involving records has been started prior to the expiration of the five-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period, whichever is later.

Failure by the subgrantee to comply with these requirements shall lead to enforcement action that can result in suspension and/or termination of this grant.

SECTION II: GRANT ADMINISTRATION

1. MONITORING

1.1. Monitoring /Site Visits:

The State reserves the right to monitor each subgrantee during the course of the grant period. Every effort will be made to give subgrantees a minimum of two (2) weeks notice of each scheduled visit. During monitoring visits, subgrantees must ensure that all records pertaining to ESG are made available to the OEO representative(s) and that a staff member is available to offer assistance and answer questions.

1.2 Field Audit for Fiscal Compliance

The Governor's Office, Office of Economic Opportunity (OEO) is required by Title I of the Housing and Community Development Act of 1974, as amended, to review the performance of units of general local government which receive Emergency Shelter Grants Program funds through the State of South Carolina. Routinely, the OEO fulfills this requirement by conducting on-site fiscal audits.

Field audits (1) offer/provide technical assistance, (2) include a review of financial records applicable to the grant period under audit, (3) ensure the subgrantee has satisfactorily met the fiscal requirements and maintained the appropriate internal controls for the period under audit and (4) ensure, when needed, that the subgrantee takes appropriate and timely corrective action to resolve questioned costs and identified deficiencies. Special and more complex interim audits are performed as needed. Primarily, on-site reviews will include an analysis of expenditures, equipment inventory, deposits for OEO reimbursements, contract,

subcontracts, cash match revenues and expenditure, in-kind contributions and client assistance.

1.3 Programmatic Monitoring

The OEO will monitor subgrantee management of the ESGP award through ongoing assessment of reimbursement requests, accomplishments data, and site visits if necessary. Site visits will be conducted during the program year based upon a risk assessment that considers subgrantee past performance, newly funded subgrantees, renovation/rehabilitation/conversion activities, procurements of equipment and/or improvements to facilities, OEO assessment of accomplishments data, timeliness of expenditures and filing of Requests for Reimbursement, and communications between the subgrantee and OEO. Based upon the outcome of the initial visit, follow-up visits may be conducted.

The purpose of the programmatic review is to (1) evaluate program management in compliance with the application submitted to the OEO, (2) assess the accomplishments of the program and (3) to offer technical assistance where required. Items reviewed during the scheduled programmatic site visit include: financial management system, record keeping system (including all financial, contractual, environmental, progress reports, and client files, and client complaint data), as well as the current budget and amendments. Programmatic monitoring visits will be scheduled in advance and will be conducted by the OEO Program Coordinator and/or Manager.

2. PERFORMANCE REPORTS

The State reserves the right to establish and implement a progress reporting system for all ESGP subgrantees.

2.1 General Reporting Information

1. Each State subgrantee will be provided a Program Accomplishments Form (ESGP Form 10). The subgrantee shall submit a completed Accomplishments Form 10 twice during PY 2007 as outlined below:
 - **April 7, 2008**—report should reflect cumulative, unduplicated data from April 1, 2007 thru March 31, 2008
 - **June 30, 2008**—report should reflect cumulative, unduplicated data from July 1, 2007 thru June 15, 2008.

The OEO has developed the Program Accomplishment Form (ESGP Form 10) for collection of HUD required reporting data.

2.2 Final/Close-out Report

Each subgrantee is required to submit a final/close-out report using ESGP Form 10 as noted above. The final/close-out report must be submitted to the OEO within 15 days after the close of the grant period (by June 30, 2008).

3. FINANCIAL MANAGEMENT PROCEDURES

3.1 Method Of Payment

Payments under the Emergency Shelter Grants Program will follow a cost reimbursement procedure as prescribed by 24 CFR Part 576.83. That is, subgrantees shall be reimbursed only for costs that have been incurred and corroborated with paid invoices or other evidence of subgrantee expenditure or outlays. Requests for Reimbursement must include OEO forms as well as copies of the invoices and evidence of payment for the invoices for which reimbursement is being sought. Evidence of payment can include check copies and bank statements. **The general ledger is not considered evidence of payment and is only required for audit purposes.** Additionally, when bank statements are submitted as evidence of payment, there should be sufficient notation of which items are relevant to the request.

All Requests for Reimbursement must reflect a match expenditure from the subgrantee equal to or more than the Federal funds being requested.

Requests for Reimbursement should be submitted on a monthly basis. **Additionally, when tallying receipts, do not round figures. Requests for Reimbursement must reflect the actual dollars and cents expended.**

Costs incurred prior to the beginning of the start-up date or after the ending date cannot be reimbursed by the grant. The method OEO utilizes to prorate bills/invoices where a portion of the billing period is outside of the grant period is as follows:

$$\frac{\text{Bill/Invoice total}}{\text{Number of days in billing period}} = \text{Rate}$$

Then

$$\text{Rate} \times \text{Allowable days in billing period} = \text{Allowable Cost}$$

Subgrantees must also submit the final Request for Reimbursement to the OEO within 15 days after the expiration of the grant period (by June 30, 2008).

3.2 Procurement Procedures

Subgrantees must comply with the terms and conditions of both the Federal and State procurement codes in the acquisition of equipment, services, supplies and the awarding of any subcontracts. A copy of OEO required procurement procedures has been included in the appendices. Every subgrantee is strongly encouraged to read the procedures carefully. Failure to comply with the procurement procedure shall result in disallowance of the cost incurred.

Subgrantees engaging in rehabilitation are required to request each prospective vendor to submit a copy of their builder's license, and proof of insurance along with their bids. Subgrantees are also required to ensure that an inspection is performed at the end of the project to monitor compliance with the specifications and all the applicable regulations. A copy of the final inspection report should be submitted to the OEO with the subgrantee retaining the original copy.

A copy of each written bid submitted to the OEO must be documented by the subgrantee. OEO representatives will review these documents upon the

subgrantee's procurement request in accordance with OEO procurement procedures and again during the OEO fiscal monitoring.

Where units of local government distribute Emergency Shelter Grants to eligible nonprofit agencies, the unit of general local government is responsible for ensuring that its respective recipient carries out its ESGP program in compliance with all requirements that apply to its program.

3.3 Reallocation

The State reserves the right to reallocate Emergency Shelter Grants Program funds as provided for in the federal regulations governing the program in order to ensure that the funds provide the maximum benefit to South Carolina's homeless population. Funding (grant award) reallocations will be made on the basis of the State's determination of the best use of available funds.

3.4 Contracting/Subcontracting

The use of debarred, suspended, or ineligible contractors in association with ESG project activities is prohibited. The provisions of 24 CFR Part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status apply and are enforceable under the Emergency Shelter Grants Program.

3.5 Programmatic Amendments

Any proposed changes which would affect the scope of work of the projects as described in the application, must be approved in writing by the OEO. Modifications or changes to the scope of work will not be approved by the OEO if it is determined that the change substantially modifies the approved application as selected through the competitive bid process.

3.6 Budget Amendments

Any changes in the subgrantees' budget of any line item must be approved, in writing, by the OEO prior to submission of any expenditures. Subgrantees must submit an ESGP Form 8 (Budget Revision) signed by the Executive Director and written explanation of the proposed budget change. ****Please note that budget revisions must be submitted to the OEO for approval thirty (30) days prior to the close of the grant period.**

4. SPECIAL TERMS AND CONDITIONS

For successful applicants (subgrantees), the State reserves the right to specify special grant terms and conditions of the grant agreement consistent with the Federal regulations governing the Emergency Shelter Grants Program. The State further reserves the right to establish the amount of the grant award. Grant related expenses may be incurred only after all grant conditions have been adequately met and the grant award document (agreement) executed.

4.1 Record Keeping

Each grant recipient must ensure that reports and other records associated with the Emergency Shelter Grants Program are maintained for five years or until any litigation, claim or audit inquiry has been resolved.

4.2 Sanctions

If the State of South Carolina determines that a subgrantee is not complying with the requirements of the program or other applicable Federal laws, the State must take appropriate actions, which may include, as appropriate:

1. Issue a warning letter that further failure to comply with such requirement will result in a more serious sanction;
2. Condition a future grant;
3. Direct the subgrantee to stop the incurring of costs with ESGP grant amounts;
4. Require that some or all of the grant amounts be remitted to HUD;
5. Reduce the level of funds the subgrantee was originally awarded/or would otherwise be eligible to receive; or
6. Elect not to provide future grant funds to the subgrantee until appropriate actions are taken to ensure compliance.

Any grant amounts that become available to the State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practical) to other units of local government located in the State for use within the time period specified (the original grant period), or to HUD for reallocation.

5. CONTRACTS/AGREEMENTS

5.1 Emergency Shelter Grants Program (ESGP) Award/State Subgrantee Agreement

The Emergency Shelter Grants Program Award represents a binding agreement between the State of South Carolina and the designated unit of general local government, or private nonprofit organization, regarding use, terms and conditions of funds provided under the Program. In addition, the Grant Award lists such information as the Subgrantee's name, grant number, emergency shelter facility to be assisted with ESGP funds, the amount of the ESGP award, local funds, and total award, as well as the grant award date, and grant period. Please see attached Grant Award (sample).

5.2 Subgrantee/Emergency Shelter Provider Agreement

The Subgrantee/Emergency Shelter Provider Agreement represents an agreement between the unit of local government and the emergency shelter facility to be assisted with ESGP funds. The Subgrantee/Emergency Shelter Provider Agreement provides such identifying grant information as the grant award number and allocation. This agreement also states the terms and conditions specific to the relationship between the unit of local government and its sub-subgrantee (the assisted shelter). The Subgrantee/ Emergency Shelter Provider Agreement identifies the person(s) responsible for preparing required reports as well as the point of contact on behalf of the shelter responsible for insuring regulatory and legal compliance with the Emergency Shelter Grants Program.

SECTION III: REFERENCE INFORMATION:

1. Definitions

All definitions pertaining to the Emergency Shelter Grants Program are contained in 24 CFR Part 576, which is included as an appendix of this handbook.

2. Appendices:

- ESG Fiscal Forms
 - ESG Budget Forms
 - ESG Budget Revision Forms
 - ESG Request for Reimbursement Forms
- ESG Accomplishment Report Form
- OEO Policy Memos
 - Fiscal/Technical Assistance Memorandum F02-01 REVISED (Procurement)
 - Fiscal/Technical Assistance Memorandum F-ESG07-01 (Vehicle Acquisition)
 - Fiscal/Technical Assistance Memorandum F08-01 REVISED (Single Audit Review)
 - Fiscal/Technical Assistance Memorandum F09-01 REVISED (Surplus Property)
 - Fiscal/Technical Assistance Memorandum F-ESG07-02 (Rent—Cost Alloc.)
 - Fiscal/Technical Assistance Memorandum F02-05 REVISED (OEO Audit)
 - Fiscal/Technical Assistance Memorandum F03-05 REVISED (Fixed Assets)
- Federal Register 24 CFR Part 576
- Sample Grant Award
- HUD Definition of Maintenance Memorandum
-

APPENDIX A

ESG FISCAL FORMS

Emergency Shelter Grants Program Application Budget

APPENDIX E

Subgrantee Name: _____

Telephone: _____

Shelter Name: _____

Category	ESG Federal Funds Requested	Subgrantee Contribution/Match Expense	Total Budget	Proposed # of Clients to be Served
Shelter:				
Rehab. (minor)				
Rehab. (major)				
Conversion				
Shelter Total:	\$0	\$0	\$0	0
Essential Services (max=30%):				
Client Assistance				
Counseling				
Education				
Other (Specify)				
Essential Total:	\$0	\$0	\$0	0
Preventive (max=30%):				
Client Assistance				
Preventive Total:	\$0	\$0	\$0	0
Operational:				
Equipment				
Rent				
Insurance				
Utilities				
Food & Household				
General Maintenance (Specify)				
Other (Specify)				
Staff Cost (max = 10%)				
Operational Total:	\$0	\$0	\$0	0
GRAND TOTAL:	\$0	\$0	\$0	0
Executive Director Signature _____			Date _____	
Board Chairperson Signature _____			Date _____	

For OEO Use Only: (Please Initial & Date)	Approved By	Date
OEO Program Coordinator		
OEO Senior Manager		
OEO Director		
OEO Fiscal		

ESGP Match Budget

Subgrantee: _____

* TYPE	DOLLAR VALUE	SOURCE OF MATCH	METHOD OF CALCULATION
Donated Supplies (clothing, furniture, equipment, etc.)			
Cash Donations Or Grants ** (please specify if cash used to pay salaries)			
Value of Donated Building			
Fair Rental or Lease Value			
Volunteers (@ \$5/hour)			
Other (such as fundraisers)			
*** MATCH TOTAL			

NOTES:

- * All matching funds must be justified as ESGP related and will be verified during OEO monitorings.
- ** All salaries, including executive directors, charged as matching funds must be verifiable as ESGP related via submitted position descriptions and time sheets must be retained for OEO audits.
- *** Match budget must equal, and not exceed, the amount of ESGP funding requested.

Emergency Shelter Grant Program Application Budget Narrative

Subgrantee Name: _____

Category	Description of Activities	Cost
Shelter		
Shelter Total		
Essential Services (max=30%):		
Client Assistance*		
Counseling*		
Education*		
Other* (Specify)		
Essential Services Total		
Preventive (max=30%):		
Client Assistance		
Preventive Total		
Operational:		
Equipment		
Rent**		
Insurance***		
Utilities		
Food & Household****		
General Maintenance (Specify)*****		
Other* (Specify)		
Staff Cost* (max = 10%)		
Operational Total		
GRAND TOTAL:		

*For any position partially or fully funded with ESGP, attach a position description and provide the name of the staff person.

**Attach a copy of the lease.

***Attach portion of policy that provides the policy number, vendor information, premium, and payment arrangements.

****Provide latest DHEC inspection and/or evidence of liability insurance if requesting assistance with food.

*****Please be aware that replacment of items HUD describes as "fixtures" is not an allowable expense under this category. Replacement of "fixtures must be budgeted under "Shelter" and are subject to Environmental Review. (Refer to RFA package for the HUD Memo.)

Emergency Shelter Grants Program Budget Revision Request

I. Subgrantee Name: _____

II. Telephone Number: _____

III. Grant #: _____

IV. Date of Request: _____

V. Justification for Proposed Revision is mandatory. Indicate reason(s) for this proposed action in the attached cover letter.

We are requesting to revise the budget match only. The source of the match is the same as originally approved.

VI. Request for Budget Revision

Description	*USE WHOLE DOLLARS ONLY*			*USE WHOLE DOLLARS ONLY*		
	FEDERAL FUNDS			MATCH FUNDS		
	ESG Last Approved Budget	ESG Proposed Change	ESG Revised Budget	Match Expense Last Approved Budget	Match Expense Proposed Change	Match Expense Revised Budget
SHELTER						
Rehab. (minor)			0			0
Rehab. (major)			0			0
Conversion			0			0
Shelter Total:	0	0	0	0	0	0
Essential Services						
Client Assistance			0			0
Counseling			0			0
Education			0			0
Other (Specify)			0	0		0
Essential Total:	0	0	0	0	0	0
Preventive (max=30%):						
Client Assistance			0			0
Preventive Total:	0	0	0	0	0	0
Operational:						
Equipment				0		0
Rent			0	0	0	0
Insurance			0			0
Utilities			0	0		0
Food & Household			0	0		0
General Maintenance (Specify)			0			0
Other (Specify)			0	0		0
Staff Cost (max = 10%)			0			0
Operational Total:	0	0	0	0	0	0
GRAND TOTAL:	0	0	0	0	0	0

*Signature, Executive Director

*Signature, Board Chairperson

Date

Date

OEO Approval	Initial	Date
ESGP Coordinator		
ESGP Senior Manager		
OEO Director		
OEO Fiscal		

ESGP Match Budget Revision

Subgrantee: _____

TYPE	DOLLAR VALUE	SOURCE OF MATCH	METHOD OF CALCULATION
Donated Supplies (clothing, furniture, equipment, etc.)			
Cash Donations Or Grants (please specify if cash used to pay salaries)			
Value of Donated Building			
Fair Rental or Lease Value			
Volunteers (@ \$5/hour)			
Other (such as fundraisers)			
MATCH TOTAL			

NOTES:

- * All matching funds must be justified as ESGP related and will be verified during OEO monitorings.
- ** All salaries, including executive directors, charged as matching funds must be verifiable as ESGP related via submitted position descriptions and time sheets must be retained for OEO audits.
- *** Match budget must equal, and not exceed, the amount of ESGP funding requested.

Emergency Shelter Grants Program Request for Reimbursement

Subgrantee Name: _____ Request #: _____
 Grant Number: _____ Request Date: _____
 Grant Period: _____ Reimbursements Requested but not yet received:
 Telephone Number: _____ (Request #(s): _____ Date(s): _____)
 Staff Name(s) Completing Report: _____

Number of Clients Served: This Report: _____ Year To Date: _____

USE ACTUAL FIGURES-NO ROUNDING					*USE ACTUAL FIGURES-NO ROUNDING*			
FEDERAL FUNDS					MATCH FUNDS			
Description	ESGP Approved Budget	ESGP Funds Requested This Request	ESGP Funds Requested to Date	ESGP Budget Balance	Match Budget	Match Expense This Request	Match Expense Reported to Date	Match Budget Balance
SHELTER								
Rehab. (minor)				0.00				0.00
Rehab. (major)				0.00				0.00
Conversion				0.00				0.00
Shelter Total:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Essential Services								
Client Assistance				0.00				0.00
Counseling				0.00				0.00
Education				0.00				0.00
Other (Specify)				0.00				0.00
Essential Total:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Preventive (max=30%):								
Client Assistance				0.00				0.00
Other (Specify)				0.00				0.00
Preventive Total:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Operational:								
Equipment				0.00				0.00
Rent				0.00				0.00
Insurance				0.00				0.00
Utilities				0.00				0.00
Food & Household				0.00				0.00
General Maintenance								
(Specify)				0.00				0.00
Other (Specify)								
Staff Cost (max = 10%)				0.00				0.00
Operational Total:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
GRAND TOTAL:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

*BY SIGNATURE, I CERTIFY THAT ALL EXPENDITURES ARE GRANT RELATED AND ARE IN COMPLIANCE WITH FEDERAL REGULATIONS AND ALL GRANTEE GUIDELINES.

*Signature, Executive Director

*Signature, Board Chairperson
(required on 1st request only)

Date

Date

OEO Approval	Initial	Date
ESGP Coordinator		
ESGP Senior Manager		
OEO Director		
OEO Fiscal		

Emergency Shelter Grants Program (ESGP)
Request for Reimbursement
Summary Listing

Subgrantee Name: _____ Request #: _____

Category	Description	Vendor	Invoice / Bill		Check			ESGP
			Date	Number	Date	Number	Amount	Amount
Shelter								
Shelter Total							0.00	0.00
Essential Services								
Essential Total							0.00	0.00
Preventive								
PreventiveTotal							0.00	0.00
Operational								
Operational Total							0.00	0.00
Grand Total This Request							\$0.00	\$0.00

More space may be needed so the form can be modified to accommodate individual requests.

APPENDIX B

ESGP REPORTING FORM

Program Accomplishment Data (ESGP Form 10)

Please indicate the appropriate report submission with an "x"

<input type="checkbox"/>	Planned (Application) Accomplishments
<input type="checkbox"/>	Actual Cumulative Unduplicative April 4th
<input type="checkbox"/>	Actual Cumulative Unduplicative Final by June 30th

Agency Name and Physical Address:

Objective(s) Narrative:

Indicate program(s) and service(s) with an "x"

<input type="checkbox"/>	emergency shelter facilities	<input type="checkbox"/>	transitional housing
<input type="checkbox"/>	vouchers for shelters	<input type="checkbox"/>	outreach
<input type="checkbox"/>	drop-in-center	<input type="checkbox"/>	soup kitchen/meal distribution
<input type="checkbox"/>	food pantry	<input type="checkbox"/>	health care
<input type="checkbox"/>	mental health	<input type="checkbox"/>	HIV/AIDS services
<input type="checkbox"/>	alcohol/drug program	<input type="checkbox"/>	employment
<input type="checkbox"/>	child care	<input type="checkbox"/>	homeless prevention
<input type="checkbox"/>	other		

Organization Type:

<input type="checkbox"/>	Public Agency	<input type="checkbox"/>	Faith Based Non-Profit	<input type="checkbox"/>	Other Non-Profit
--------------------------	---------------	--------------------------	------------------------	--------------------------	------------------

ESGP Objective and Outcome (Choose one objective and one outcome)

Objective

<input type="checkbox"/>	Create suitable living environment
<input type="checkbox"/>	Provide decent affordable housing
<input type="checkbox"/>	Create economic opportunities

Outcome

<input type="checkbox"/>	Availability/accessibility
<input type="checkbox"/>	Affordability
<input type="checkbox"/>	Sustainability

SPECIAL CHARACTERISTICS--Activity Location (select all that apply):

<input type="checkbox"/>	CDBG target area: A HUD approved Neighborhood Revitalization Strategy Area
<input type="checkbox"/>	Local target area: locally designated non-CDBG strategy area targeted for assistance
<input type="checkbox"/>	Disaster area: A Presidentially declared major disaster area
<input type="checkbox"/>	Historic preservation: An area designated for historic preservation by local, state, or federal officials
<input type="checkbox"/>	Brownfield redevelopment: An abandoned, idled, or underused property where expansion or redevelopment is complicated by real or potential environmental contamination

BENEFICIARIES: The number for the following questions should be based on the annual number of persons served.

RESIDENTIAL (EMERGENCY OR TRANSITIONAL SHELTERS)

Annual Number of Adults Served:	<input type="text"/>
Annual Number of Children Served:	<input type="text"/>
Sub-Total:	0

NON-RESIDENTIAL SERVICES

Annual Number of Adults and Children Served:	<input type="text"/>
Grand Total:	0

RACIAL/ETHNIC CHARACTERISTICS: Annual number served (including residential and non-residential services)

	#Total	#Hispanic
White:		
Black/African American:		
Asian:		
American Indian/Alaskan Native:		
Native Hawaiian/Other Pacific Islander:		
American Indian/Alaskan Native & White:		
Asian & White:		
Black/African American & White:		
Am.Indian/Alaskan Native & Black African Am.:		
Other Multi-Racial:		
TOTAL:	0	0

BENEFICIARIES--GENDER, AGE, AND FAMILY TYPE

For Emergency or Transitional Services only

ANNUAL NUMBER OF INDIVIDUAL HOUSEHOLDS (SINGLES):

Unaccompanied 18 and over ...Male:		Female:		TOTALS
Unaccompanied under 18Male:		Female:		

ANNUAL NUMBER OF FAMILY HOUSEHOLDS WITH CHILDREN HEADED BY:

Single 18 and over Male:		Female:		
Single under 18 Male:		Female:		
Two Parents 18 and over				
Two Parents under 18				

ANNUAL NUMBER OF FAMILY HOUSEHOLDS WITH NO CHILDREN

TOTAL:

TARGET POPULATION

List the number of persons for each subpopulation you served. If you served subpopulations that fit more than one category, you may place overlapping numbers (duplicate persons) on the appropriate lines.

Chronically Homeless (Emergency Shelter only):	
Severely Mentally Ill:	
Chronic Substance Abuse:	
Other Disability:	
Veterans:	
Persons with HIV/AIDS:	
Victims of Domestic Violence:	
Elderly:	

Chronically Homeless definition: An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more OR has had at least four (4) episodes of homelessness in the past three (3) years. To be considered chronically homeless a person must have been on the streets or in an emergency shelter (i.e. not transitional housing) during these stays.

HOUSING--Annual number served in Emergency or Transitional Shelters (Annual number of persons served in residential housing for Emergency and/or Transitional Shelters)

SHELTER TYPE	NUMBER OF PERSONS HOUSED
Barracks:	
Group/Large House:	
Scattered Site Apartment:	
Single Family Detached House:	
Single Room Occupancy:	
Mobile Home/Trailer:	
Hotel/Motel:	
Other:	
Total:	0

Emergency Shelter Bed Capacity:
 Transitional Shelter Bed Capacity:

Agency Funding (will be used for leverage information)

For reporting to HUD, indicate the specific sources and amounts of leveraged funds for your ESGP project:

ESGP Funds

Sources of Local Funding:

Other Federal (including pass-through funds e.g., City CDBG, County FEMA)

State/Local Government Funding (e.g., State Housing Trust Funds, Local Assessment)

Private (including recipient) Funding

fund raising/cash	
loans	
building Value or Lease	
donated Goods	
donated Computers	
new Staff Salaries	
volunteers (\$5/hr)	
volunteer Medical/Legal	

Preventive Number Served and Demographics:

PREVENTIVE SERVICES

Annual Number of Adults Served:	
Annual Number of Children Served:	
Sub-Total:	0

White:		
Black/African American:		
Asian:		
American Indian/Alaskan Native:		
Native Hawaiian/Other Pacific Islander:		
American Indian/Alaskan Native & White:		
Asian & White:		
Black/African American & White:		
Am.Indian/Alaskan Native & Black African Am.:		
Other Multi-Racial:		
TOTAL:	0	0

Homeless Number Served and Demographics:**RESIDENTIAL (EMERGENCY OR TRANSITIONAL SHELTERS)**

Annual Number of Adults Served:
Annual Number of Children Served:
Sub-Total:

	#Total	#Hispanic
White:	<input type="text"/>	<input type="text"/>
Black/African American:	<input type="text"/>	<input type="text"/>
Asian:	<input type="text"/>	<input type="text"/>
American Indian/Alaskan Native:	<input type="text"/>	<input type="text"/>
Native Hawaiian/Other Pacific Islander:	<input type="text"/>	<input type="text"/>
American Indian/Alaskan Native & White:	<input type="text"/>	<input type="text"/>
Asian & White:	<input type="text"/>	<input type="text"/>
Black/African American & White:	<input type="text"/>	<input type="text"/>
Am.Indian/Alaskan Native & Black African Am.:	<input type="text"/>	<input type="text"/>
Other Multi-Racial:	<input type="text"/>	<input type="text"/>
TOTAL:	<input type="text" value="0"/>	<input type="text" value="0"/>

of emergency shelter residents:
of emergency shelter residents exiting to transitional shelter:
of emergency shelter residents exiting to permanent housing:

of transitional shelter residents:
of transitional shelter residents exiting to permanent housing:

APPENDIX C

OEO POLICY MEMOS



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FISCAL/TECHNICAL ASSISTANCE MEMORANDUM F02 – 01- REVISED

TO: See Distribution

From: Ann Harmon, Senior Manager of Fiscal Services

SUBJECT: Procurement Procedures

DATE: June 27, 2006

This memorandum supercedes OEO's Technical Assistance Memorandums regarding this subject. It is the intent of this office to maximize program efficiency, ensure the application of appropriate procedures, and maintain the integrity of grant funds. These guidelines will assist Executive Directors and Boards of Directors in conducting procurement transactions in a timelier manner and in maximizing each agency's purchasing effectiveness.

Procurement Procedures

1. Procurement documentation of equipment, supplies, and services shall be based upon clear and accurate written descriptions, including any applicable technical specifications.
2. All professional services in excess of **\$500** must receive prior OEO approval.
3. All procurement expenditures must be adequately documented with a voucher/check, invoice, endorsed delivery receipt, requisition/purchase order for each transaction and applicable approval as may be required within the subgrantee's procedures.
4. The subgrantee must incorporate these guidelines into its respective procurement procedures as part of the Financial Policies and Procedures Manual.
5. The OEO Audit Division will review the subgrantee's procurement procedures and purchases during the Field Audit. Inconsistencies and non-compliance issues will be noted for corrective action.
6. OEO may request justification and documentation supporting how any purchase is a direct cost and related to OEO funded programs.

7. Agencies must practice sound accounting principles when establishing accruals at the end of each program year. The expenditure that is being accrued such as salaries, professional services, supplies, utilities and travel must have been: a transaction within the program year, based on clear and justifiable documentation and payments must be made to vendors when “normally due” which should be within 30 days of the close of the grant.
8. All items budgeted and processed as an obligation/encumbrance against program funds must be received, earned and/or completed by the end of the program period.

The following state Procurement Code section 11-35-1550 shall be utilized in conducting procurements unless the proposed purchase is from a vendor who is selected from the current State Procurement Contract, which must be verified through the State’s Materials Management Office (MMO). The OEO reserves the right to question any procurement found during a monitoring or audit visit that it considers to be unreasonable. The OEO staff may approve the purchase or may request additional information to assist with clarifying the justification of the purchase as it relates to program need.

- A. Small Purchases less than \$2,500** may be accomplished without securing competitive quotes if the prices are considered to be reasonable. Such purchases shall be distributed equitably among qualified vendors. When practical, a quote is to be solicited from another vendor prior to placing a repeat order. This will assist in verifying the reasonableness of the price and detecting instances of overpricing. Larger purchases of like goods or services may not be subdivided in order to circumvent the procurement requirements.
- B. Purchases greater than the cumulative of \$2,500 to \$10,000** will require solicitations of verbal or written quotes from a minimum of three (3) qualified sources of supply and documentation of the quotes will be attached to the purchase requisition. If the lowest bid is not accepted, the procurement must follow the Sole Source procedures in item D. The subgrantee’s Executive Director can execute the proposed purchase in accordance with the requirements contained in this memorandum and in the program grant agreement.
- C. Purchases greater than \$10,000 require** solicitation of written quotes from a minimum of three (3) qualified sources of supply and documentation of the quotes will be attached to the purchase requisition. Any purchase greater than \$10,000 must be advertised in a major metropolitan newspaper for three (3) consecutive days to obtain competitive quotes for the purchase. The subgrantee’s Board of Directors must approve the purchase to be documented in the minutes. Documentation of Board approval along with the three (3) competitive bids detailing the proposed purchase must be forwarded to the OEO office for review and approval.

- D. Sole Source** procurement is determined when the decision is made to restrict procurement to one potential vendor. In cases of reasonable doubt, competition may be solicited to support the Sole Source decision. A written explanation as to why no other vendor will be suitable or acceptable to meet the need will be forward to OEO for review and approval prior to the transaction.
- E. Emergency Procurements** may be made when there is an immediate threat to public health, welfare, critical economy or efficiency, or safety, and provided that such emergency procurements are made with as much competition as is practical under the circumstances, with a follow-up written report from the Executive Director on the basis of the emergency and the selection of the vendor.

Annual Equipment Budget Requirements

Allowable “equipment” is tangible non-expendable personal property charged directly to the award having a useful life of more than one (1) year and an acquisition cost threshold of \$1,500. For the purpose of OEO funded grants, all technology purchases (computers, etc.) are to be listed on the Annual Equipment Budget form with a copy of the specifications. OEO will review and determine if the equipment is compatible with SCROMA requirements. When submitting a Program Application or Amendment Budget, all anticipated equipment purchases for the program year will be provided on the Annual Equipment Budget form. Proposed equipment purchases will require the procurement documentation and justification upon the submission of the budget. When OEO approves a subgrantee's budget, the identified equipment will be reviewed and approved for the program year. If additional equipment is needed after the Budget is approved, a revised Annual Equipment Budget form and documentation must be submitted with the revised budget for OEO approval. Subgrantees must obtain Board approval when required (greater than \$10,000.) Once this process is accomplished and all provisions are satisfied, the agency is ready to complete the procurement. Subgrantees must maintain equipment records as in OEO Fiscal/Technical Assistance Memorandum F09-01.

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FISCAL/TECHNICAL

ASSISTANCE MEMORANDUM F-ESG-07- 01

TO: ESG Subgrantee Executive Directors

FROM: Arlene Williams, Senior Manager of Fiscal Services

SUBJECT: Vehicle Acquisition, Identification, Assignment, Usage and Maintenance

DATE: June 25, 2007

This memorandum pertains solely to vehicles acquired with the Office of Economic Opportunity (OEO) Emergency Shelter Grant (ESG) funds, operated and maintained by the subgrantee.

The following policies have been established to address the acquisition, identification, assignment, usage and maintenance of vehicle operations. Through these policies, the OEO seeks to achieve maximum cost-effective management of vehicles purchased in support of the agency's performance targets and objectives for OEO funded programs and eliminate unofficial and unauthorized use of grant vehicles; those that are not a direct cost to these grants.

ACQUISITION:

Board Approval: Provide, with the budget, a copy of the signed Board minutes listing the vehicle purchase information as being presented and approved by the Board.

Justification: Provide criteria and cost analysis based on how the vehicle will be utilized for grant purposes and indicate the number of program operators. Utilization of the vehicle will clearly benefit the grants intent.

Cost to Purchase: Agencies will follow procurement procedures represented in Fiscal/Technical Assistance Memo F02-01 and ensure agency obtains and maintains adequate insurance.

IDENTIFICATION:

The agency will maintain a current inventory of OEO funded vehicles which will indicate the make, model, acquisition date and cost, the manufacturers' identifying serial number, location, and estimated disposal date.

ASSIGNMENT:

The agency will develop policies and procedures that ensure vehicles are used in the most cost-effective manner. Vehicles purchased with OEO funds are not for personal use but must be placed in a motor pool and assigned based on the following criteria:

- 1) Vehicles are only authorized for use in the performance of program related tasks necessary to accomplish program objectives.
- 2) Agency employee has received documented approval for the use of the vehicle.

-Assignment of an agency vehicle purchased with OEO funds is not allowed as a prerequisite of employment.

USAGE:

Vehicles are intended for agency employees who are required to travel in the performance of official program related business. All persons utilizing vehicles will log each trip on a form (example attached) providing the following information: date of travel, staff traveling in vehicle, beginning and ending mileage, and specific program related function being performed. Vehicle logs must be retained by the agency for a minimum of three (3) years following the close of the grant period. Current program year logs are to include the beginning and ending mileage for the program year and be maintained in an active file and readily available upon request during the OEO monitoring and audit visits.

- Any mileage incurred for personal use is prohibited. An employee "on-call" does not justify personal use or sole use of an OEO funded vehicle.
- Official miles must be appropriate for the program related travel.

MAINTENANCE:

The OEO will monitor the cost-effectiveness of the OEO funded vehicle. The agency will provide records which supply sufficient and accurate maintenance information to evaluate compliance.

VEHICLE DISPOSAL:

Subgrantees must contact the OEO for approval to dispose of OEO-funded vehicles. All proceeds from the sale or disposition of OEO-funded vehicles must be used to supplement additional ESG program-related activities.

If you have any questions, please call me at (803) 734-9828.

Enclosure

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FISCAL/ TECHNICAL ASSISTANCE MEMORANDUM F 08- 01 (Revised)

TO: See Distribution

FROM: Jeanine S McCall
Senior Manager for Audits

DATE: November 29, 2006

RE: Single Audit Review and Appeals Procedures for Nonprofit Organizations

This memorandum supersedes previously issued OEO Technical Assistance Memo F 08-01 (Revised), dated July 12, 2006.

PURPOSE

The purpose of this memorandum is to set forth standards for obtaining consistency and uniformity among entities expending federal awards and to permit a thorough and fair review of audit questions and disallowances. The OEO shall revise these procedures as needed in order to maintain compliance with state and federal requirements.

The following regulations are federal audit requirements for grant agreements with the Office of Economic Opportunity:

1. Human Services Reauthorization Act of 1984, Public Law 98-558.
2. OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (Issued pursuant to the Single Audit Act of 1984, Public Law 98-502 and the Single Audit Act Amendments of 1996, Public Law 104-156).
3. OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.
4. OMB Circular A-129, Policy for Federal Credit Programs and Non-Tax Receivables, Part V Delinquent Debt Collection.
5. OMB Circular A-122, Cost Principles for Non-Profit Organizations.

SINGLE AUDIT

1. Definition

An audit of federal awards as described in OMB Circular A-133 which includes the subgrantee's financial statements and required schedules related to Federal awards.

2. Audit Requirements § .200

Subgrantees that expend (§ .205) \$500,000 or more in a fiscal year in federal awards shall have a single audit conducted for that year in accordance with the provisions of this part.

Refer to § 500-515 for requirements for audit scope, audit report and reporting audit findings.
Refer to § 520-530 for major program, program risk and low auditee criteria.

3. Sanctions § .225

When a subgrantee demonstrates a continued inability or unwillingness to have an audit conducted in accordance with these standards, OEO will institute appropriate sanctions which could include, but are not limited to, withholding future federal awards, disallowing overhead costs, suspending or terminating federal awards until the audit is completed and submitted.

4. Audit Costs § .230

Professional fees associated with audits are allowable charges if made in compliance with OMB Circular A-133 and may be allocated as indirect cost. Generally, the percentage of costs charged shall not exceed the percentage derived by dividing OEO program funds by total federal funds expended by the subgrantee during the agency's fiscal year under audit.

SELECTION OF AUDITORS § .305

When procuring audit services, the subgrantee shall use the guidelines provided in OEO Technical Assistance Memorandum F 02-01 (Procurement Procedures). Each Request for Proposal for audit services shall be for a period not to exceed three (3) consecutive fiscal years. At a minimum, procurement of audit services shall include advertisement of the Request for Proposal in the South Carolina Business Opportunities newsletter, published by the State Budget and Control Board, and the newsletter of the South Carolina Association of Certified Public Accountants.

When requesting proposals for audit services, the objective and scope of the audit should be made clear. Submitted proposals should include a copy of the firm and partner current licensure and a copy of the most recent peer review. Licenses can be verified by the State Board of Accountancy.

Factors to consider in evaluating each proposal include responsiveness to the proposal, inclusion of license and peer review report, relevant experience, staff professional qualifications, technical abilities, and price. Whenever possible, the subgrantee is encouraged to make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises (OMB Circular A-133).

In line with the Sarbanes-Oxley Act of 2002 Sec. 203, an incumbent auditor can submit bids for consecutive subsequent periods; however, the lead auditor or audit partner responsible for reviewing the audit may provide such services for no more than five (5) consecutive fiscal years. After such time, a new lead auditor or audit partner shall be appointed.

INDEPENDENT AUDIT REPORT SUBMISSION § .320

The independent audit shall be completed and submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the subgrantee's fiscal year-end. Within thirty (30) days of receipt of the independent audit report, the subgrantee must provide OEO:

- Two (2) copies of the Independent Audit Report; one original and one photo copy
- An explanation for differences between amounts reported on the FSR and amounts reported on the audit schedules
- Any necessary supporting documents
- Any other information that may be pertinent to the grant(s) under audit

The subgrantee will forward at least one (1) copy of the independent audit report to each funding source represented in the report, exclusive of OEO's required copies.

The audit report submission is to include the elements outlined in OMB Circular A-133 for financial statements, report submission, audit scope, audit reporting and audit findings and is to include the following:

1. Data Collection Form or statement as required in § .320(b)

A copy of the form may be found at <http://harvester.census.gov/gac/collect/formoptions.html>. or a statement containing the following information:

- a. agency name, employer ID #, name, title and phone number of certifying official
- b. audit firm or auditor name, address, phone number, name and title of lead auditor and audit partner
- c. list of Federal awarding agencies who will receive copies of reporting package
- d. yes or no statement pertaining to the types of compliance requirements listed in § .320(b)

2. Reporting Package as required in § .320(c)

- a. Financial Statements as required in § .310(a)
- b. Schedule of Expenditures as required in § .310(b) and is to:
 - include either on the schedule of expenditures or schedule of Federal awards a note

describing significant accounting policies used in schedule preparation

- identify program year and or effective period and OEO approved budget and related under/over budget per program year on the schedule of expenditures

c. **Audit Reporting** as required in § .505 is to ensure:

1. the **Independent Auditor's Reports**, with respect to major programs, includes:
 - a. an opinion (or disclaimer of opinion) on financial statements
 - b. a statement on compliance and internal controls over financial reporting based on the audit of financial statements
 - c. an opinion (or disclaimer of opinion) on compliance with laws, regulations, contracts and grant agreements and a statement on audit results on internal controls
2. the **Schedule of Findings and Questioned Costs** as required in § .505(d) contains:
 - a. the **Summary of Audit Results** identifying
 - the Catalog of Federal Domestic Assistance (CFDA) number for major programs
 - why an auditee does not qualify as low-risk, if applicable
 - b. **Financial Statement Findings and Finding and Questioned Costs** for Major Programs contain an auditor recommendation and agency response per finding
3. the **Summary of Schedule of Prior Audit Findings** as required in § .315(b) includes either:
 - a. corrective action taken § .315(c)
 - b. planned corrective action and partial action taken or
 - c. an explanation if corrective action differs significantly from original action plan

OEO AUDIT RESPONSIBILITIES § .400(d)

OEO is to ensure that federal awards are used for authorized purposes and in compliance with the laws and regulations governing the provisions of each grant agreement, that the subgrantee has satisfactorily met the fiscal year-end audit requirements and that the subgrantee takes appropriate and timely corrective action. OEO will follow up on prior year's audit findings and issue a desk audit report.

OEO DESK AUDIT

The desk audit consist of a review of the single audit to determine audit acceptability, to ascertain agency compliance, to examine questioned costs and findings reported in the independent audit report, to determine grant agreement violations not reported in the independent audit report and to determine any fund balances due OEO.

Audit acceptability will be determined by compliance with the OMB Circulars, Government Auditing Standards, generally accepted auditing standards, generally accepted accounting principles, and laws, regulations, contracts and grant agreements.

The single audit review will be conducted within six (6) months following receipt of the subgrantee's independent audit report. The desk audit will include an analysis of program activity with a separate analysis for indirect cost. Program variances will address completed program years while partial year program variances considered material will be subject to sampling. Indirect cost analysis will be performed after receipt of the single audit and the corresponding indirect cost rate agreement for the year(s) audited.

The desk audit report will describe and provide justification for each audit finding, questioned cost and area of concern. The report will identify whether each questioned cost is an allowed or disallowed cost, the amount of funds involved, if any, and the total sum in question for each OEO program.

OEO will address reports and follow up correspondence to the Executive Director unless otherwise requested by the subgrantee's Board. The preliminary Desk Audit Report and Indirect Cost Analysis affords the Executive Director an opportunity to address matters prior to completion of the initial report. The subgrantee shall provide a written response to the preliminary report to OEO Audit within thirty (30) days of the date of the report, unless otherwise stated, and shall respond to the initial report as indicated.

Failure to respond the preliminary or initial report within the required time frame will be interpreted as agency agreement with the report's findings. If the subgrantee fails to respond to follow-up correspondence within the requested time frame, this will also be interpreted as agency agreement and correspondence indicating non response will be sent to the Board Chairperson. The agency's failure to respond may result in a suspension of future funding.

PAYMENT OF DISALLOWED COSTS

Disallowed costs shall be payable to the OEO within forty-five (45) days from the date of the correspondence identifying disallowed costs. Payment methods permitted to satisfy disallowed costs are as follows:

1. Lump-sum Payment

The OEO must receive the total disallowed sum within the aforementioned time period. If the subgrantee is financially unable to make full payment within this time frame, this fact must be stated to the OEO Senior Auditor in writing within twenty (20) business days of the date of the correspondence identifying disallowed costs. The subgrantee will be subject to an OEO audit to document the non-federal/non-state funds available for repayment of delinquent debt.

2. Installment Payments

Subsequent to verification of the subgrantee's inability to repay in lump-sum, OEO will establish a written agreement binding the subgrantee to the terms and methods outlined.

The standard repayment period is twelve months, not to exceed a thirty-six month maximum time allowance. Monthly payments will be due OEO by the 15th of each month. Quarterly payments will be due OEO by the 15th day of the last month in the quarter.

3. Delinquent Payments

If a subgrantee fails to repay funds within the required time frame, the regulations mandated by OMB Circular A-129, Policies for Federal Credit Programs and Non-Tax Receivables, Part V-Delinquent Debt Collection and 4 CFR Chapter 11-Federal Claims Collection Standards (General Accounting Office – Department of Justice) may be exercised in the collection of delinquent debt.

If you have any questions, you may contact me at (803) 734-0691.

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FISCAL/TECHNICAL

ASSISTANCE MEMORANDUM F09- 01 REVISED

TO: See Distribution

FROM: Ann Harmon, Senior Manager of Fiscal Services

SUBJECT: Procedures for Surplus Property and Equipment Disposal

DATE: September 9, 2005

The Office of Economic Opportunity (OEO), as administering agent, is authorized to utilize the State of South Carolina's Office of General Services for disposal of surplus property. The following are procedures for reporting the disposal of unwanted property:

Surplus Property

1. Subgrantee will send a letter requesting the disposal of surplus property to the appropriate OEO Senior Program Manager with the following details: location of property, description of property with serial number, VIN number and mileage, year purchased, quantity and acquisition cost per unit.
2. The OEO will complete a Turn-In Document (TID) Surplus Property and submit the form to the Office of General Services, Surplus Property Office. The OEO will retain a copy of this document for tracking purposes. If you have any questions regarding a request to surplus property, you should contact the appropriate OEO Senior Program Manager.
3. The Surplus Property Office will review the Turn-In Document and send a Screener out to determine if the property is of any value.
4. If a property is of any value, the Surplus Property Office will arrange pick-up of the property and determine if the property will be sold at public auction or by competitive sealed bid to the highest bidder.
5. The Office of General Services will deposit the proceeds from the sale less the expense of the sale in the fund designated on the Turn-In Document.

When liquidation occurs for any property purchased with Federal funds, (for example: an insurance check for a totaled vehicle) proceeds must be returned to the source of funds from which the property was originally purchased to offset the purchase of replacement property.

In an instance where Surplus Property determines that OEO program inventory is of no resale value, the agency must then assume responsibility for timely and proper disposal. Once the agency is notified of the final determination by Surplus Property, within ten (10) working days, the agency Executive Director must notify the appropriate OEO Senior Program Manager in writing of the final disposal.

Equipment Disposal

OMB Circular A110 sec. 34, (e) states, “when acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the Federal awarding agency,” (OEO). Therefore, when the decision has been made by the agency to utilize inventory items (purchased with OEO funds) for trade of sell, OEO is to be notified in writing. Once approved, the OEO will notify the agency in writing. The agency must be able to verify the existence and current utilization of all OEO funded equipment and maintain records for an accurate accounting of all equipment whether sold or traded, in the compliance with the Terms and Conditions stipulated in the OEO Grant Agreement (A-110, sec. 34 (f) (3)).

If you have any questions, please call me at (803) 734-9828.

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FISCAL/TECHNICAL

ASSISTANCE MEMORANDUM F-ESG-07 02

TO: ESG Subgrantee Executive Directors

FROM: Arlene Williams, Senior Manager of Fiscal Services

SUBJECT: Rent, Insurance, Contractual Services and Cost Allocation Procedures

DATE: July 1, 2007

The Office of Economic Opportunity (OEO), the administering agent of Emergency Shelter Grant (ESG) federal funds, is responsible for providing procedural guidance and advising subgrantees of requirements. The following information is provided to insure proper execution of procurements with OEO awarded grants regarding rent, insurance, contractual services and cost allocation.

Rent: Space used by the subgrantee for ESG administrative or program activities:

- May be charged in a cost allocation basis to the Operational Expenses category in accordance with program requirements.
- Must be reasonable and comparable to other available properties in the same market area with written rental and/or lease agreements submitted to OEO with supporting documentation.

Insurance: Agencies are responsible for maintaining adequate insurance coverage based on sound business practices, including workers' compensation, liability and other insurance as appropriate and/or dictated by specific program requirements.

- Fidelity coverage is recommended to insure against financial loss.
- Agencies obtaining insurance during an ESG grant period must follow the procurement guidelines outlined in Fiscal/Technical Assistance Memo F02-01 or provide a statement from the agent regarding the search and obtainment of insurance as a sole source justification.
- Agencies with preexisting insurance coverage may charge installment payments covering periods within the ESG award with an approved budget.

Contractual (Professional) Services: Cost for contractual (professional) and consultant services rendered by a person who possesses a special skill (excluding maintenance or repair agreements) and who is not an officer or employee of the agency:

- Must be obtained according to the procurement guidelines outlined in Fiscal/Technical Assistance Memo F-02-01 and be reasonable in relation to the service.
- Must be necessary to contract for the service, considering agency's capabilities to render the service.
- Must show how the service was accomplished in prior grant periods.
- Must show whether the service can be performed more economically through contracting rather than by existing employees.
- Supporting documentation of the contract should support all of the above.

Cost Allocation: Cost allocation procedures must be implemented when direct costs benefit more than one program (grant). Several methods of allocating costs should be reviewed to determine the fairest and easiest methods to administer cost to each category. Adequate documentation supporting the cost allocation method used must accompany the procurement.

If you have any questions, please call me at (803) 734-9828.

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FISCAL/TECHNICAL ASSISTANCE MEMO – F 02-05

TO: See Distribution List

FROM: Rosalie Smith, OEO Senior Manager for Audit

SUBJECT: OEO FIELD AUDIT

DATE: October 17, 2005

I. FIELD AUDIT – OEO RESPONSIBILITIES

The Office of Economic Opportunity (OEO) performs a routine year-end closeout audit to ensure

- 1) the integrity of OEO-funded programs
- 2) operational effectiveness and efficiency
- 3) the reliability of the subgrantee's business management systems and financial reporting
- 4) compliance with applicable federal and state laws and regulations governing OEO grant awards
- 5) funds and property are properly safeguarded
- 6) technical assistance is provided in appropriate areas of concern
- 7) the subgrantee takes appropriate action to resolve current and prior year audit findings

OEO's on-site audit objectives include an assessment of subgrantee's internal controls, cash management, ensuring assets have the proper documentation and are properly maintained, accruals are properly supported, balance sheet and income statement accounts are used in a consistent manner to ensure comparability, client assistance eligibility, proper procurement standard and a review of human resource policies and procedures. OEO will sample expenditures to ensure payments are adequately supported with the proper documentation and are in compliance with the OEO grant agreement and budget requirements.

Approximately thirty (30) days prior to the actual visit, OEO will send a written confirmation of the anticipated field audit date to the agency's executive director outlining the required documents that are to be submitted to OEO prior to the on-site visit and a list of documents to be readily available upon arrival. Additional documents may need to be provided during the field audit.

Upon arrival at the agency, OEO audit staff will conduct an entrance conference with the subgrantee's executive director and fiscal officer. The entrance conference is open to any additional staff the executive director or OEO staff deem necessary.

Prior to leaving the agency, OEO audit staff will conduct an exit conference with the agency's executive director, fiscal officer and program director(s). The exit conference is open to any additional persons the executive director or OEO staff deem necessary. Findings and areas of concern will be detailed along with suggestions for corrective actions.

Under normal circumstances where no additional information is required, a report will be submitted to the executive director within approximately sixty (60) days from the date of the exit conference. A copy of the report will be sent to the Board.

II. SUBGRANTEE AUDIT RESPONSIBILITIES

The subgrantee is responsible for preparing for all of the requested documents, responding within the required time frame and developing a corrective action plan as needed.

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Office of the Governor

MARK SANFORD
GOVERNOR

OFFICE OF EXECUTIVE
POLICY AND PROGRAMS

FISCAL/TECHNICAL ASSISTANCE MEMORANDUM F03-05

TO: See Distribution

FROM: Rosalie Smith, Senior Manager for Audit

SUBJECT: Audit Standards for Fixed Assets – Definitions, Management and Depreciation

DATE: October 17, 2005

This memorandum has been developed to assist the subgrantee in establishing proper procedures for obtaining effective internal control and record maintenance for fixed assets purchased with OEO funds.

I. DEFINITIONS

Fixed Asset: Tangible and intangible nonexpendable property having a useful life of more than one year (e.g. equipment, machinery, automobiles, furniture, real property) and, for OEO purposes, that has an acquisition cost of \$1,500 or more.

II. FIXED ASSETS MANAGEMENT STANDARDS

Titles shall vest with the subgrantee on the condition the subgrantee uses the assets for the authorized purpose of the project as long as is needed.

In compliance with the OEO grant agreement, subgrantee management systems shall provide for effective control over and accountability for all funds, property and other assets. The subgrantee shall adequately safeguard all such assets and assure they are used solely for authorized purposes. Adequate written procedures must be in place to determine the reasonableness, allocability and allowability of costs in accordance with OMB Circular A-122 and to guard against loss, damage and theft. Loss, damage and/or theft are to be reported immediately to the OEO.

Insurance Coverage: The subgrantee shall provide adequate insurance coverage for fixed assets acquired with Federal funds.

Other Use: Subgrantee may make fixed assets available for use to other projects that have purposes consistent with those authorized by the subgrantee. Preference shall be given first to other OEO-sponsored projects/programs, then to other federally-funded programs and lastly to non-federal programs/organizations whose purpose is consistent with those authorized by the subgrantee.

Non-Federal programs/organizations shall be charged a fee equal to that charged by private companies for similar services. **These fees are to be charged as “other program income” and accounted for separately from OEO disbursed “grant revenue” on financial records.** This revenue is to be returned and used solely for the OEO program for which the equipment/property was initially purchased.

Disposition: Refer to OEO Fiscal Memo F09-01, Procedures for Surplus Property and Equipment Disposal. Be mindful that the subgrantee must obtain OEO’s written approval prior to the sale of or use of the assets for trade-in and prior to transferring asset(s) to other federally-sponsored programs. If the agency obtains OEO’s authorization to sell, proper sales procedures shall be established that provide for competition, to the extent practicable, and results in the highest possible return.

Fixed Asset Records: The agency must maintain records to verify the existence and current utilization of all OEO-funded assets for all periods in which the asset is in use and to account for all assets sold or traded-in in compliance with the OEO grant agreement and OMB Circular A-110.34 (f) 1.

The subgrantee must ensure that fixed asset records contain the following information: asset description, serial and model number, acquisition date and cost, depreciation method and useful life and asset location and condition. Assets are to be capitalized according to the agency’s capitalization policy. The agency is still responsible for maintaining records on fixed assets purchased with OEO funds that do not meet the agency’s capitalization policy.

In accordance with OEO procedures, based in part on OMB Circular A-110.34(f) 3, the agency shall conduct an annual physical review of capitalized (fixed) assets and document asset locations and conditions as of the end of the program year. The document shall be compared to the asset listing produced by the external auditor (at agency’s fiscal year end). Any differences shall be documented and explained in the agency’s fixed asset reconciliation. Differences could result from asset purchases or disposals transacted after the agency’s fiscal year end.

OEO audit will require the following supporting documents:

- copy of asset listing produced by external audit
- copy of documented asset locations and conditions
- asset reconciliation sheet
- documents to support asset purchases
- documents to support asset disposals

III. DEPRECIATION

Depreciation is a cost allocation that represents the physical deterioration of property due to age, wear or market conditions. Depreciation computation shall be based on the asset's acquisition cost (invoice price) and directly attributable costs necessary to bring the asset into working condition. Adequate depreciation records must be maintained indicating the amount of depreciation taken each period and the total amount of accumulated depreciation (OMB Circular A-122, Attachment B-11).

DISTRIBUTION:

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APPENDIX D

Federal Register 24 CFR Part 576

[Code of Federal Regulations]
[Title 24, Volume 3]
[Revised as of April 1, 2006]
From the U.S. Government Printing Office via GPO Access
[CITE: **24CFR576**]

[Page 216-228]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 576_EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Subpart A_General

Sec.

- 576.1 Applicability and purpose.
- 576.3 Definitions.
- 576.5 Allocation of grant amounts.

Subpart B_Eligible Activities

- 576.21 Eligible activities.
- 576.23 Faith-based activities.
- 576.25 Who may carry out eligible activities.

Subpart C_Award and Use of Grant Amounts

- 576.31 Application requirements.
- 576.33 Review and approval of applications.
- 576.35 Deadlines for using grant amounts.

Subpart D_Reallocations

- 576.41 Reallocation; lack of approved consolidated plan--formula cities
and counties.
- 576.43 Reallocation of grant amounts; lack of approved consolidated
plan--States, territories, and Indian tribes.
- 576.45 Reallocation of grant amounts; returned or unused amounts.

Subpart E_Program Requirements

- 576.51 Matching funds.
- 576.53 Use as an emergency shelter.
- 576.55 Building standards.
- 576.56 Homeless assistance and participation.
- 576.57 Other Federal requirements.
- 576.59 Relocation and acquisition.

Subpart F_Grant Administration

- 576.61 Responsibility for grant administration.
- 576.63 Method of payment.
- 576.65 Recordkeeping.
- 576.67 Sanctions.

Authority: 42 U.S.C. 3535(d) and 11376.

Source: 54 FR 46799, Nov. 7, 1989, unless otherwise noted.

Subpart A_General

Sec. 576.1 Applicability and purpose.

This part implements the Emergency Shelter Grants program contained in subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378). The program authorizes the Secretary to make grants to States, units of general local government, territories, and Indian tribes (and to private nonprofit organizations providing assistance to homeless individuals in the case of grants made with reallocated amounts) for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating expenses and essential services in connection with emergency shelters for the homeless, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness.

[61 FR 51548, Oct. 2, 1996]

Sec. 576.3 Definitions.

The terms Grantee and HUD are defined in 24 CFR part 5.

Administrative costs means as the term is defined in Sec. 583.135(b) of this part, except that the exclusion relates to the costs of carrying out eligible activities under Sec. 576.21(a).

Consolidated plan means the plan prepared in accordance with part 91 of this title. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with part 91 of this title.

Conversion means a change in the use of a building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building after conversion.

Emergency shelter means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless.

Essential services includes services concerned with employment, health, drug abuse, and education and may include (but are not limited to):

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- (1) Assistance in obtaining permanent housing.
- (2) Medical and psychological counseling and supervision.
- (3) Employment counseling.
- (4) Nutritional counseling.
- (5) Substance abuse treatment and counseling.

(6) Assistance in obtaining other Federal, State, and local assistance including mental health benefits; employment counseling; medical assistance; Veteran's benefits; and income support assistance such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps;

(7) Other services such as child care, transportation, job placement and job training; and

- (8) Staff salaries necessary to provide the above services.

Formula city or county means a metropolitan city or urban county that is eligible to receive an allocation of grant amounts under Sec. 576.5.

Homeless means as the term is defined in 42 U.S.C. 11302.

Homeless prevention means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

(1) Short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices;

(2) Security deposits or first month's rent to permit a homeless family to move into its own apartment;

- (3) Mediation programs for landlord-tenant disputes;
- (4) Legal services programs for the representation of indigent tenants in eviction proceedings;
- (5) Payments to prevent foreclosure on a home; and
- (6) Other innovative programs and activities designed to prevent the incidence of homelessness.

Indian tribe means as the term is defined in 42 U.S.C. 5302(a).

Major rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

Metropolitan city means a city that was classified as a metropolitan city under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Nonprofit recipient means any private nonprofit organization providing assistance to the homeless, to which a State or unit of general local government distributes emergency shelter grant amounts.

Obligated means that the grantee or State recipient, as appropriate, has placed orders, awarded contracts, received services, or entered similar transactions that require payment from the grant amount. Grant amounts that a unit of general local government or State awards to a private nonprofit organization by a written agreement or letter of award requiring payment from the grant amount are obligated.

Private nonprofit organization means as the term is defined in 42 U.S.C. 11371.

Rehabilitation means the labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

Renovation means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

Responsible entity means as the term is defined in Sec. 58.2 of this title, as applied through Sec. 58.1(b)(3) of this title and Sec. 576.57(e).

State means each of the several States and the Commonwealth of Puerto Rico.

Territory means each of the following: the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Palau (Trust Territory of the Pacific), and any other territory or possession of the United States.

State recipient means any unit of general local government or nonprofit organization to which a State makes available emergency shelter grant amounts.

Unit of general local government means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

Urban county means a county that was classified as an urban county

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under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or the State recipient.

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56128, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995; 61 FR 5210, Feb. 9, 1996; 61 FR 51548, Oct. 2, 1996]

Sec. 576.5 Allocation of grant amounts.

(a) Territories. HUD will set aside for allocation to the

territories an amount equal to 0.2 percent of the total amount of each appropriation under this part in any fiscal year. HUD will allocate this set-aside amount to each territory based upon its proportionate share of the total population of all territories.

(b) States, metropolitan cities, urban counties, and Indian tribes. HUD will allocate the amounts that remain after the set-aside to territories under paragraph (a) of this section, to States, metropolitan cities, urban counties, and Indian tribes, as provided in 42 U.S.C. 11373. HUD will subsequently distribute the amount set aside for Indian tribes under this paragraph as provided in Sec. 576.31.

(c) Notification of allocation amount. HUD will notify in writing each State, metropolitan city, urban county, and territory that is eligible to receive an allocation under this section of the amount of its allocation.

[61 FR 51549, Oct. 2, 1996]

Subpart B_Eligible Activities

Sec. 576.21 Eligible activities.

(a) Eligible activities. Emergency shelter grant amounts may be used for one or more of the following activities relating to emergency shelter for the homeless:

(1) Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless;

(2) Provision of essential services to the homeless, subject to the limitations in paragraph (b) of this section;

(3) Payment for shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food, and furnishings. Not more than 10 percent of the grant amount may be used for costs of staff;

(4) Developing and implementing homeless prevention activities, subject to the limitations in 42 U.S.C. 11374(a)(4) and paragraph (c) of this section. Grant funds may be used under this paragraph to assist families that have received eviction notices or notices of termination of utility services only if the conditions stated in 42 U.S.C. 11374(a)(4) are met; and

(5) Administrative costs, in accordance with 42 U.S.C. 11378.

(b) Limitations on provision of essential services. (1) Grant amounts provided by HUD to units of general local government, territories, or Indian tribes, and grant amounts provided by a State to State recipients, may be used to provide an essential service under paragraph (a)(2) of this section only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government (or, in the case of a nonprofit organization, the unit of general local government in which the proposed activities are to be located), territory, or Indian tribe, as applicable, provided with local funds during the 12 calendar months immediately before the grantee or State recipient received initial grant amounts.

(2) Limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient. This limitation may be waived in accordance with 42 U.S.C. 11374.

(c) Limitation on homeless prevention activities. Limits on the use of assistance for homeless prevention activities established in 42 U.S.C. 11374(a)(4) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient.

[61 FR 51549, Oct. 2, 1996]

Sec. 576.23 Faith-based activities.

(a) Organizations that are religious or faith-based are eligible, on the same

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basis as any other organization, to participate in the Emergency Shelter Grants program. Neither the Federal government nor a State or local government receiving funds under Emergency Shelter Grants programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(b) Organizations that are directly funded under the Emergency Shelter Grants program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(c) A religious organization that participates in the Emergency Shelter Grants program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct Emergency Shelter Grants funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide Emergency Shelter Grants-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an Emergency Shelter Grants-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(d) An organization that participates in the Emergency Shelter Grants program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(e) Emergency shelter grants may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. Emergency shelter grants may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, emergency shelter grants may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to emergency shelter grants in this part. Sanctuaries, chapels, or other rooms that an Emergency Shelter Grants-funded religious congregation uses as its principal place of worship, however, are ineligible for Emergency Shelter Grants-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).

(f) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

Sec. 576.25 Who may carry out eligible activities.

(a) Generally. As provided in 42 U.S.C. 11373 eligible activities may be carried out by all State recipients and grantees, except States.

(b) States. All of a State's formula allocation, except for administrative costs, must be made available to the following entities:

(1) Units of general local government in the State, which may include formula cities and counties even if such cities and counties receive grant amounts directly from HUD; or

(2) Private nonprofit organizations, in accordance with 42 U.S.C. 11373(c).

(c) Nonprofit recipients. Units of general local government, territories, and Indian tribes may distribute all or part

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of their grant amounts to nonprofit recipients to be used for emergency shelter grant activities.

[61 FR 51549, 51550, Oct. 2, 1996]

Subpart C_Award and Use of Grant Amounts

Source: 54 FR 46799, Nov. 7, 1989, unless otherwise noted.
Redesignated at 61 FR 51550, Oct. 2, 1996.

Sec. 576.31 Application requirements.

(a) Indian tribes. After funds are set aside for allocation to Indian tribes under Sec. 576.5, HUD will publish a Notice of Funding Availability (NOFA) in the Federal Register. The NOFA will specify the requirements and procedures applicable to the allocation and competitive awarding of these set-aside funds to eligible Indian tribe applicants.

(b) States, territories, and formula cities and counties. To receive emergency shelter grant amounts, a State, territory, or formula city or county must:

(1) Submit documentation required under this part, part 5 of this title, or any other applicable provisions of Federal law; and

(2) Submit and obtain HUD approval of a consolidated plan that includes activities to be funded under this part. This consolidated plan serves as the jurisdiction's application for funding under this part.

[61 FR 51550, Oct. 2, 1996]

Sec. 576.33 Review and approval of applications.

(a) Conditional grant. HUD may make a conditional grant restricting the obligation and use of emergency shelter grant amounts. Conditional grants may be made where there is substantial evidence that there has been, or there will be, a failure to meet the requirements of this part. In such a case, the reason for the conditional grant, the action necessary to remove the condition, and the deadline for taking those actions will be specified. Failure to satisfy the condition may result in imposition of a sanction under Sec. 576.69, or in any other action authorized under applicable Federal law.

(b) Grant agreement. The grant will be made by means of a grant agreement executed by HUD and the grantee. HUD will not disburse funds before the grant agreement is fully executed.

[54 FR 46799, Nov. 7, 1989, as amended at 60 FR 1918, Jan. 5, 1995.
Redesignated and amended at 61 FR 51550, Oct. 2, 1996]

Sec. 576.35 Deadlines for using grant amounts.

(a)(1) States. Each State must make available to its State recipients all emergency shelter grant amounts that it was allocated under Sec. 576.5 within 65 days of the date of the grant award by HUD. Funds set aside by a State for homeless prevention activities under Sec. 576.21(a)(4) must be made available to State recipients within 180 days of the grant award by HUD.

(2) State recipients--(i) Obligation of grant funds. Each State recipient must have its grant amounts obligated (as that term is defined at Sec. 576.3) within 180 days of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities under Sec. 576.21(a)(4), State recipients are required to obligate grant amounts within 30 days of the date on which the State made the grant amounts available to the State recipient.

(ii) Expenditure of grant funds. Each State recipient must spend all of its grant amounts within 24 months of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities, State recipients must spend such sums within 180 days of the date on which the State made the grant amounts available to the recipient.

(b) Formula cities and counties, territories and Indian tribes--Expenditure of grant funds. Each formula city or county, territory, and Indian tribe must spend all of the grant amounts it was allocated or awarded under Sec. 576.5 or 576.31 within 24 months of the date of the grant award by HUD.

(c) Failure to meet deadlines. (1) Any emergency shelter grant amounts that are not made available or obligated within the applicable time periods specified in paragraph (a)(1) or (b) of

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this section will be reallocated under Sec. 576.45.

(2) The State must recapture any grant amounts that a State recipient does not obligate and spend within the time periods specified in paragraph (a)(2) of this section. The State, at its option, must make these amounts and other amounts returned to the State (except amounts referred to in Sec. 576.22(b)(6) available as soon as practicable to other units of general local government for use within the time period specified in paragraph (a)(2) of this section or to HUD for reallocation under Sec. 576.45.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51550, Oct. 2, 1996]

Subpart D_Reallocations

Source: 54 FR 46799, Nov. 7, 1989, unless otherwise noted.
Redesignated at 61 FR 51550, Oct. 2, 1996.

Sec. 576.41 Reallocation; lack of approved consolidated plan--formula cities and counties.

(a) Applicability. This section applies where a formula city or county fails to submit or obtain HUD approval of its consolidated plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year.

(b) Grantee. HUD will make available to the State in which the city or county is located the amounts that a city or county referred to in paragraph (a) of this section would have received.

(c) Notification of availability. The responsible HUD field office will promptly notify the State of the availability of any reallocation amounts under this section.

(d) Eligibility for reallocation amounts. In order to receive reallocation amounts under this section, the State must:

(1) Execute a grant agreement with HUD for the fiscal year for which the amounts to be reallocated were initially made available.

(2) If necessary, submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must be submitted to the responsible HUD field office no later than 30 days after notification is given to the State under paragraph (c) of this section.

(e) Amendment review and approval. (1) Section 576.33 governs the review and approval of application amendments under this section. HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(2) Program activities represented by proposed amendments are subject to environmental review under Sec. 576.57 in the same manner as original proposals.

(f) Deadlines for using reallocated grant amounts. Section 576.35 governs the use of amounts reallocated under this section.

(g) Amounts that cannot be reallocated. Any grant amounts that cannot be reallocated to a State under this section will be reallocated as provided by Sec. 576.43. Amounts that are reallocated under this section, but that are returned or unused, will be reallocated under Sec. 576.45.

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56128, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

Sec. 576.43 Reallocation of grant amounts; lack of approved consolidated plan--States, territories, and Indian tribes.

(a) Applicability. This section applies when:

(1) A State, territory, or Indian tribe fails to obtain approval of its consolidated plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year; or

(2) Grant amounts cannot be reallocated to a State under Sec. 576.41.

(b) Grantees. (1) HUD will reallocate the amounts that a State or Indian tribe referred to in paragraph (a)(1) of this section would have received:

(i) In accordance with 42 U.S.C. 11373(d)(3); and

(ii) If grant amounts remain, then to territories that demonstrate extraordinary need or large numbers of homeless individuals.

(2) HUD will make available the amounts that a territory under paragraph (a)(1) of this section would have

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received to other territories that demonstrate extraordinary need or large numbers of homeless individuals.

(c) Notification of funding availability. HUD will make reallocations to States and Indian tribes under this section by direct notification or Federal Register notice that will set forth the terms and conditions under which amounts under this section are to be reallocated and grant awards made. In the case of reallocations to Territories, the responsible HUD field office will promptly notify each Territory of any reallocation amounts under this section, and indicate the terms and conditions under which reallocation amounts are to be made available and grant awards made.

(d) Eligibility for reallocation amounts. In order to receive reallocation amounts under this section, the formula city or county, State, territory, or Indian tribe must:

(1) Submit an amendment, in accordance with 24 CFR part 91, to its consolidated plan for that program year to cover activities for the reallocation amount it wishes to receive; and

(2) Execute a grant agreement with HUD for the fiscal year for which the amounts to be reallocated were initially made available.

(e) Review and approval. (1) Section 576.53, and such additional requirements as HUD may specify in the notification under paragraph (c) of this section, govern the review and approval of application amendments under this section. HUD will rank the amendments and make grant awards under this section on the basis of the following factors:

(i) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(ii) The extent to which the proposed activities address this need; and

(iii) The ability of the grantee to carry out the proposed activities promptly.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(f) Grant amounts. HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application amendment.

(g) Deadlines for using reallocated amounts. Section 576.35 governs the use of amounts reallocated under this section.

(h) Amounts not reallocated. Any grant amounts that are not reallocated under this section, or that are reallocated, but are unused, will be reallocated under Sec. 576.45(d). Any amounts that are reallocated, but are returned, will be reallocated under Sec. 576.45(c).

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56129, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

Sec. 576.45 Reallocation of grant amounts; returned or unused amounts.

(a) General. From time to time, HUD will reallocate emergency shelter grant amounts that are returned or unused, as those terms are defined in paragraph (f) of this section. HUD will make reallocations under this section by direct notification or Federal Register Notice that will set forth the terms and conditions under which the grant amounts are to be reallocated and grant awards are to be made.

(b) FEMA boards. HUD may use State and local boards established under the Emergency Food and Shelter Program administered by the Federal Emergency Management Agency, as a resource to identify potential applicants for reallocated grant amounts.

(c) Reallocation--returned grant amounts--(1) States and formula cities and counties. HUD will endeavor to reallocate returned emergency shelter grant amounts that were initially allocated under Sec. 576.5 to a State or a formula city or county, for use within the same jurisdiction. Reallocation of these grant amounts is subject to the following requirements:

(i) Returned grant amounts that were allocated to a State will be made available (A) first, to units of general local government within the State and (B) if grant amounts remain, then to other States.

(ii) Returned grant amounts that were allocated to a formula city or county will be made available:

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(A) First, for use in the city or county, to units of general local government that are authorized under applicable law to carry out activities serving the homeless in the jurisdiction;

(B) If grant amounts remain, then to the State in which the city or county is located;

(C) If grant amounts remain, to units of general local government in the State; and

(D) If grant amounts remain, to other States.

(2) Indian tribes. Returned grant amounts that were allocated to an Indian tribe will be made available to other Indian tribes.

(3) Territories. Returned grant amounts that were allocated to a territory will be made available, first, to other territories and, if grant amounts remain, then to States.

(4) Further reallocation: States, formula cities and counties, territories, and Indian tribes. HUD will reallocate under paragraph (e) of this section any grant amounts that remain after applying the preceding provisions of paragraph (c) of this section or that are returned to HUD after reallocation under those provisions.

(5) The responsible HUD field office will announce the availability of returned grant amounts. The announcement will establish deadlines for submitting applications, and will set out other terms and conditions relating to grant awards, consistent with this part. The announcement will specify the application documents to be submitted.

(6) The responsible HUD field office may establish maximum grant amounts, considering the grant amounts available, and will rank the applications using the criteria in paragraph (e) of this section.

(7) HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application, based on competing demands for grant amounts and the extent to which the respective activities address the needs of the homeless.

(8) HUD will endeavor to make grant awards within 30 days of the application deadline or as soon thereafter as practicable.

(9) Grants awarded under this section are subject to environmental review under Sec. 576.57.

(d) Reallocation--unused grant amounts. Unused grant amounts will be added to the appropriation for the fiscal year immediately following the fiscal year in which the amounts become available to HUD for reallocation, and will be allocated in accordance with the provisions of Sec. 576.5 of this part.

(e) Selection criteria. HUD will award grants under paragraph (c) of this section based on consideration of the following criteria:

(1) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(2) The extent to which the proposed activities address this need; and

(3) The ability of the grantee to carry out the proposed activities promptly.

(f) Definitions--returned or unused grant amounts. (1) For purposes of this section, emergency shelter grant amounts are considered ``returned'' when they become available for reallocation because a jurisdiction does not execute a grant agreement with HUD for them.

(2) For purposes of this section, emergency shelter grant amounts are considered ``unused'' (i.e., Federal deobligation):

(i) When they become available for reallocation by HUD after a grantee has executed a grant agreement with HUD for those amounts; or

(ii) The amounts remain after reallocation under Sec. 576.43 or paragraph (c) of this section.

[54 FR 46799, Nov. 7, 1989, as amended at 57 FR 54507, Nov. 19, 1992; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

Subpart E_Program Requirements

Source: 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

Sec. 576.51 Matching funds.

(a) General. Each grantee, other than a territory, must match the funding provided by HUD under this part as set forth in 42 U.S.C. 11375. The first \$100,000 of any assistance provided to a

recipient that is a State is not required to be matched, but the benefit of the unmatched amount must be shared as provided in 42 U.S.C. 11375(c)(4). Matching funds must be provided after the date of the grant award to the grantee. Funds used to match a previous ESG grant may not be used to match a subsequent grant award under this part. A grantee may comply with this requirement by providing the matching funds itself, or through matching funds or voluntary efforts provided by any State recipient or nonprofit recipient (as appropriate).

(b) Calculating the matching amount. In calculating the amount of matching funds, in accordance with 42 U.S.C. 11375(a)(3), the time contributed by volunteers shall be determined at the rate of \$5 per hour. For purposes of this paragraph, the grantee will determine the value of any donated material or building, or of any lease, using a method reasonably calculated to establish a fair market value.

[61 FR 51552, Oct. 2, 1996]

Sec. 576.53 Use as an emergency shelter.

(a)(1) Restrictions and definition. Period of use restrictions applicable to assistance provided under this part are governed by 42 U.S.C. 11375(a). Use of grant amounts for developing and implementing homeless prevention activities does not trigger period of use requirements.

(2) For purposes of the requirements under this section, the term same general population means either the same types of homeless persons originally served with ESG assistance (i.e., battered spouses, runaway children, families, or mentally ill individuals), or persons in the same geographic area.

(b) Calculating the applicable period. The 3- and 10-year periods applicable under paragraph (a) of this section begin to run:

(1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.

(2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51552, Oct. 2, 1996]

Sec. 576.55 Building standards.

(a) Any building for which emergency shelter grant amounts are used for conversion, major rehabilitation, rehabilitation, or renovation must meet local government safety and sanitation standards.

(b) For projects of 15 or more units, when rehabilitation costs are:

(1) 75 percent or more of the replacement cost of the building, that project must meet the requirements of Sec. 8.23(a) of this title; or

(2) Less than 75 percent of the replacement cost of the building, that project must meet the requirements of Sec. 8.23(b) of this title.

[61 FR 51552, Oct. 2, 1996]

Sec. 576.56 Homeless assistance and participation.

(a) Assistance. (1) Grantees and recipients must assure that homeless individuals and families are given assistance in obtaining:

(i) Appropriate supportive services, including permanent housing, medical health treatment, mental health treatment, counseling,

supervision, and other services essential for achieving independent living; and

(ii) Other Federal, State, local, and private assistance available for such individuals.

(2) Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375(c)(5).

(3) Grantees and recipients may, in accordance with 42 U.S.C. 11375(e), terminate assistance provided under this part to an individual or family who violates program requirements.

(b) Participation. (1) Each unit of local government, Indian tribe, and nonprofit recipient that receives funds under this part must provide for the participation of homeless individuals on its policymaking entity in accordance with 42 U.S.C. 11375(d).

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(2) Each State, territory, Indian tribe, unit of local government, and nonprofit recipient that receives funds under this part must involve homeless individuals and families in providing work or services pertaining to facilities or activities assisted under this part, in accordance with 42 U.S.C. 11375(c)(7).

[61 FR 51552, Oct. 2, 1996]

Sec. 576.57 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, use of emergency shelter grant amounts must comply with the following requirements:

(a) Nondiscrimination and equal opportunity. The nondiscrimination and equal opportunity requirements at 24 CFR part 5 are modified as follows:

(1) Rehabilitation Act requirements. HUD's regulations at 24 CFR part 8 implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). For purposes of the emergency shelter grants program, the term "dwelling units" in 24 CFR part 8 shall include sleeping accommodations.

(2) Use of emergency shelter grant amounts must also comply with the requirement that the grantee or the State recipient make known that use of the facilities and services is available to all on a nondiscriminatory basis. If the procedures that the grantee or recipient intends to use to make known the availability of the facilities and services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such facilities and services, the grantee or recipient must establish additional procedures that will ensure that such persons are made aware of the facilities and services. Grantees and recipients must also adopt procedures which will make available to interested persons information concerning the location of services and facilities that are accessible to persons with disabilities.

(b) Applicability of OMB Circulars. \1\ The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A-102) and OMB Circular No. A-87, as they relate to the acceptance and use of emergency shelter grant amounts by States and units of general local government, and Nos. A-110 and A-122 as they relate to the acceptance and use of emergency shelter grant amounts by private nonprofit organizations.

\1\ OMB Circulars referenced in this section are available at the Entitlement Cities Division, Room 7282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(c) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title apply to activities under this program.

(d) Conflicts of interest. In addition to the conflict of interest requirements in OMB Circulars A-102 and A-110, no person--

(1)(i) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and

(ii) Who exercises or has exercised any functions or responsibilities with respect to assisted activities, or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter. HUD may grant an exception to this exclusion as provided in Sec. 570.611 (d) and (e) of this chapter.

(e) Environmental review responsibilities--(1) Generally. Responsible entities must assess the environmental effects of each application under part 58 of this title. An applicant must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official

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under the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in part 58 of this title. The grant award is subject to completion of the environmental responsibilities set out in part 58 of this title within a reasonable time period after notification of the award. This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.

(2) Awards to States. In the case of emergency shelter grants to States that are distributed to:

(i) Units of general local government, the unit of general local government shall be the responsible entity, and the State will assume HUD's functions with regard to the release of funds; or

(ii) Nonprofit organizations, the State shall be the responsible entity, and HUD will perform functions regarding release of funds under part 58 of this title.

(3) Release of funds. HUD will not release funds for an eligible activity if the grantee, recipient, or any other party commits emergency shelter grant funds before the grantee submits, and HUD approves, any required Request for Release of Funds.

(f) Audit. The financial management systems used by a State, formula city or county, governmental entity, or an Indian tribe that is a grantee under this program must provide for audits in accordance with part 44 of this title. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in part 45 of this title. (OMB Circulars are available from the Executive Office of the President, Publication Service, 725 17th Street, NW., Suite G-2200, Washington, DC 20503, Telephone, 202-395-7332.)

(g) Audit. The financial management system used by a State or unit of general local government that is a grantee or State recipient must provide for audits in accordance with 24 CFR part 44. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in 24 CFR part 45.

(h) Lobbying and disclosure requirements. The disclosure requirements and prohibitions of 42 U.S.C. 3537a and 3545 and 31 U.S.C.

1352 (the Byrd Amendment), and the implementing regulations at parts 4 and 87 of this title.

(i) Davis-Bacon Act. The provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5) do not apply to this program.

(j) Intergovernmental review. The requirements of Executive Order 12372 and the regulations issued under the order at 24 CFR part 52, to the extent provided by Federal Register notice in accordance with 24 CFR 52.3.

[54 FR 46799, Nov. 7, 1989, as amended at 57 FR 33256, July 27, 1992; 61 FR 5210, Feb. 9, 1996. Redesignated and amended at 61 FR 51552, Oct. 2, 1996; 64 FR 50226, Sept. 15, 1999]

Sec. 576.59 Relocation and acquisition.

(a) Minimizing displacement. Consistent with the other goals and objectives of this part, grantees and recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) Relocation assistance for displaced persons. A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

(c) Real property acquisition requirements. The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) Responsibility of grantees and recipients. Each grantee and recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.

(e) Appeals. A person who disagrees with the grantee's or recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that

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determination with the grantee or recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) Definition--(1) Displaced person. (i) The term ``displaced person'' means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. Permanent, involuntary moves for an assisted project include:

(A) A permanent move from the real property (building or complex) following notice by the grantee, recipient or property owner to move permanently from the property, if the move occurs on or after the date that the grantee or recipient submits to HUD an application for assistance that is later approved and funded;

(B) A permanent move from the real property that occurs before the submission of the application to HUD, if the grantee, recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project, or

(C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

(1) The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the

same building/complex following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of the tenant's rent and estimated average utility costs before the initiation of negotiations, or 30 percent of gross household income; or

(2) The tenant has been required to relocate temporarily but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and the tenant does not return to the building/complex; or

(3) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) A person does not qualify as a ``displaced person'' if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The grantee or recipient may, at any time, request a HUD determination of whether a displacement is or would be covered under this section.

(2) Initiation of negotiations. For purposes of determining the type of replacement housing payment to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term ``initiation of negotiations'' means the execution of the agreement between the grantee and HUD.

(Approved by the Office of Management and Budget under OMB control number 2506-0089)

[54 FR 46799, Nov. 7, 1989, as amended at 54 FR 52397, Dec. 21, 1989. Redesignated at 61 FR 51553, Oct. 2, 1996]

Subpart F_Grant Administration

Source: 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

Sec. 576.61 Responsibility for grant administration.

Grantees are responsible for ensuring that emergency shelter grant amounts are administered in accordance with the requirements of this part and other applicable laws. The State, territory,

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Indian tribe, or unit of local government is responsible for ensuring that its recipients carry out the recipients' emergency shelter grant programs in compliance with all applicable requirements in the case of:

(a) A State making grant amounts available to State recipients; or

(b) A territory, Indian tribe, or unit of general local government distributing grant amounts to nonprofit recipients.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

Sec. 576.63 Method of payment.

Payments are made to a grantee upon its request after the grant agreement has been fully executed, and may include a working capital advance for 30 days' cash needs or an advance of \$5,000, whichever is greater. Thereafter, the grantee will be reimbursed for the amount of its actual cash disbursements. If a grantee requests a working capital advance, it must base the request on a realistic, firm estimate of the amounts required to be disbursed over the 30-day period in payment of eligible activity costs.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

Sec. 576.65 Recordkeeping.

(a) Each grantee must ensure that records are maintained for a 4-year period to document compliance with the provisions of this part.

(b) Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375(c)(5).

[61 FR 51553, Oct. 2, 1996]

Sec. 576.67 Sanctions.

(a) HUD sanctions. If HUD determines that a grantee is not complying with the requirements of this part or of other applicable Federal law, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:

(1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;

(2) Condition a future grant;

(3) Direct the grantee to stop the incurring of costs with grant amounts;

(4) Require that some or all of the grant amounts be remitted to HUD;

(5) Reduce the level of funds the grantee would otherwise be entitled to receive; or

(6) Elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

(b) State sanctions. If a State determines that a State recipient is not complying with the requirements of this part or other applicable Federal laws, the State must take appropriate actions, which may include the actions described in paragraph (a) of this section. Any grant amounts that become available to a State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practicable) to other nonprofit organizations or units of general local government located in the State for use within the time periods specified in Sec. 576.35(a)(2), or to HUD for reallocation under Sec. 576.45(d).

(c) Reallocations. Any grant amounts that become available to HUD as a result of the imposition of a sanction under this section will be reallocated under Sec. 576.45(d).

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

APPENDIX E

Sample Grant Award

**OFFICE OF THE GOVERNOR
Office of Economic Opportunity
Emergency Shelter Grants Program
1205 Pendleton Street
Columbia, South Carolina 29201**

2007 EMERGENCY SHELTER GRANTS AWARD

CFDA 14.231

HUD Grant Number: S-04-DC-45-0001

Subgrantee: «Agency__Shelter_Name»

Date of Award: 7/1/07

Grant Title: ESGP

Project Category: Emergency Shelter

Grant Period: 7/1/07 – 6/15/08

Award Amount: \$«FinalAwardAmount»

Grant No.: «GrantNo»

Nonprofit: «Agency__Shelter_Name»

The Emergency Shelter Grants (ESG) Program is authorized by Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, 42 USC 11301 (1988) as amended (the "Act"). The grant is further subject to the HUD's regulations in 24 CFR Part 576. In accordance with the provisions of the Stewart B. McKinney-Vento Homeless Assistance Act of 1987 (PL 100-77), as amended through 1992, and on the basis of the Grant application submitted, the Office of Economic Opportunity hereby awards to the above named subgrantee an Emergency Shelter Grant, in the amount shown above, for the project(s) specified in the application and within the purposes and categories authorized. The acceptance of this award creates a contract between the State of South Carolina and the subgrantee, legally binding the Subgrantee to carry out the activities set forth in the approved grant application in accordance with the Terms and Conditions of the Grant Agreement attached hereto and with the following special conditions:

- All grants/contracts to be executed by the Subgrantee must be approved by the Governor's Office of Economic Opportunity prior to execution; and
- Budgetary issues must be resolved with the Office of Economic Opportunity, Fiscal Services.

This grant shall become effective, as of the date of award, upon return of one (1) copy of this grant award which has been signed in the designated space below. The copy must have original signatures and must be returned within 30 days from the date of award. This grant period closes on June 15, 2008 and only reimbursement requests received prior to June 30, 2008 will be honored against this award.

I certify that I understand and agree to comply with the general and fiscal Terms and Conditions of this Grant Agreement and that I will provide all pertinent information in the form of required reports, invoices, and other documentation necessary to fulfilling our obligation to the U.S. Department of Housing and Urban Development (HUD), the State of South Carolina, and our Grantee.

Ashlie Lancaster, Director
Governor's Office of Economic Opportunity

Date

Witness

Date

ACCEPTANCE FOR THE SUBGRANTEE

Signature of Official with Legal Authority to Execute this
Agreement for the Subgrantee

Date

Witness

Date

PLEASE NOTE

The Grant Award is the signature page for the Grant Agreement (Terms and Conditions), hereto attached. Two (2) identical Grant Awards have been included. One (1) is to be attached to the Grant Agreement for your files. **The other copy of the Grant Award, with the required original signatures, must be returned to the State:**

Office of the Governor
Office of Economic Opportunity
1205 Pendleton Street, Room 361
Columbia, South Carolina 29201

A copy of the Grant Agreement, with the attached Grant Award (cover page) appropriately signed, must be retained in your project files.

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(Terms and Conditions)

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APPENDICES

- A. Uniform Federal Accessibility Standards

STATE OF SOUTH CAROLINA

EMERGENCY SHELTER GRANTS PROGRAM CFDA# 14.231

GRANT AGREEMENT

(Terms and Conditions)

Upon receipt by the State of South Carolina of the appropriately signed Grant Award, the State agrees to provide to the Subgrantee the Federal Assistance provided by the Emergency Shelter Grants (ESG) Program. This assistance is provided subject to the Terms and Conditions of this Grant Agreement, applicable law, regulations and all other Federal and State requirements now or hereafter in effect. This Grant Agreement is effective with respect to such assistance as of the date of the Grant Award and consists of the Grant Award hereto attached, together with the State approved application specified therein, including any assurances, certifications, maps, schedules or other submissions made (or to be made) with respect thereto.

1. **DEFINITIONS:** Except to the extent modified or supplemented by the Grant Agreement, terms shall have the same meaning in the agreement as defined in 24 CFR Part 576.
2. **PERFORMANCE:** Each Subgrantee must have all its grant amount **obligated** within **180 days** after the date on which the State made the Grant amounts available to it. For this section, obligated is defined as the State recipient having placed orders, awarded grants, received services or entered into similar transactions that require payment from the grant amount. Grant amounts that are awarded by a unit of local government to a private nonprofit organization providing assistance to the homeless are obligated pursuant to the aforementioned definition.

In the case of homeless prevention activities, as defined in 24 CFR Part 576.21(a)(4), grant amounts awarded for this activity must be obligated by the Subgrantee within **30 days** of the date on which the State made the grant amount available to the Subgrantee. ESGP funds used for homeless prevention must be **expended** within **180 days** of the date on which the State made the funds available (by December 27, 2007).

Grant amounts which are not obligated within the above-specified time frames, or within the grant period, will be recaptured by the State for redistribution to other eligible entities as provided for in the "Reallocation of Funds" Section of this Grant Agreement.

In the event the Subgrantee fails to perform the services described herein and has previously received financial assistance from the State for these services, the Subgrantee must reimburse the State for the full amount of such financial assistance. If the services described herein are only partially performed, and the Subgrantee has received financial assistance from the State for these services, the Subgrantee shall proportionally reimburse the State for any such financial assistance made.

3. **PROJECT START-UP:** All projects must begin within two (2) months of the date of the grant award. If the program has not started within two (2) months of the award date without written and justifiable cause, the State reserves the right to rescind the grant award. Start-up is defined as significant expenditure of funds indicating overall satisfactory program progress.
4. **REALLOCATION OF FUNDS:** The State reserves the right to recapture Emergency Shelter Grants Program (ESGP) funds from Subgrantees who do not meet the performance requirements of the above paragraph; who are unable to meet the requirements, as outlined in 24 CFR Part 576.55; or who otherwise, without appropriate justification, have failed to implement the project as set forth in the Subgrantee's approved ESG application.

5. **MATCHING FUNDS:** Federal regulations governing the Emergency Shelter Grants Program require a dollar-for-dollar local match. Match may either be in the form of a cash contribution or in other donated resources such as buildings, food, equipment and volunteer services. Volunteer services will be computed at \$5 an hour. [Note: Volunteers providing professional services such as medical or legal services are valued at the reasonable and customary rate in the community.]

While match revenue can be generated in a variety of forms as indicated above, the expenditures of matching funds must be for ESG eligible activities. For example, match may be cash donations; however, this cash must be utilized for the same type of allowable activities as shelter operations, preventive services, and essential services. In the case where cash match is utilized to pay salaries either wholly or in part, timesheets must substantiate hours worked on allowable ESG activities.

Localities are advised that they are solely responsible for meeting the program's match requirements for their proposed project(s). **Certification that matching funds have been secured and expended must accompany each Request For Reimbursement (ESG Form 3 dated 06/07) in the amount of the request for ESGP funding at the time of submission. Subgrantees cannot use prior years match for subsequent years or match used for other grants.**

Matching funds must be reflective of the grant period of the award. The State will not assume any financial responsibility on behalf of the applicant or subgrantee where matching dollars are concerned. For purposes of this paragraph, the Subgrantee will determine the value of any donated materials, donated building, or donated lease using any method reasonably calculated to establish a fair market value.

6. **USE AS AN EMERGENCY SHELTER:** Any building for which ESG program amounts are used for rehabilitation must be maintained as a shelter for the homeless for not less than three (3) years. In cases of major rehabilitation as defined in the 24 CFR Part 576, the shelter must be maintained for a period of not less than ten (10) years. (See 24 CFR Part 576.73)
7. **BUILDING AND HABITABILITY STANDARDS:** Any building for which the Emergency Shelter Grants Program (ESGP) funds are used for renovation, conversion, or major rehabilitation must comply with the local government safety and sanitation standards, the uniform Federal Accessibility Standards Act 24 CFR Part 40, Appendix A, and the Americans with Disabilities Act. The US Department of Housing and Urban Development and the State of South Carolina require all subgrantees to exercise every reasonable effort to ensure the safety of the shelter environs, the homeless beneficiaries, and the employees. **As a result, the OEO requires that an inspection be performed by the unit of local government to ensure that the renovation was performed in accordance with all the building codes.**

In addition, the following are a number of basic standards to ensure that all ESGP-funded facilities are safe, sanitary, and adequately maintained:

- *Structure and Materials:* The shelter building should be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents.
- *Access:* The shelter must be accessible, and there should be a second means of exiting the facility in the case of emergency or fire.
- *Space and Security:* Each resident should have adequate space and security for themselves and their belongings. Each resident must have an acceptable place to sleep.
- *Interior Air Quality:* Each room or space within the shelter/facility must have a natural or mechanical means of ventilation. The interior air should be free of pollutants at a level that might threaten or harm the health of residents.
- *Water Supply:* The shelter's water supply should be free of contamination.

- *Sanitary Facilities:* Each resident should have access to sanitary facilities that are in proper operating condition. These facilities should be able to be used in privacy, and be adequate for personal cleanliness and the disposal of human waste.
- *Thermal Environment:* The shelter/facility must have any necessary heating/cooling facilities in proper operating condition.
- *Illumination and Electricity:* The shelter/facility should have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There should be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
- *Food Preparation:* Food preparation areas, if any, should contain suitable space and equipment to store, prepare and serve food in a safe and sanitary manner.
- *Sanitary Conditions:* The shelter should be maintained in a sanitary condition.
- *Fire Safety—Sleeping/Common Areas:* There should be at least one working smoke detector in each occupied unit and all public areas of the shelter facility. In addition, smoke detectors should be located near sleeping areas and the fire alarm system should be designed for a hearing-impaired resident.

8. **ASSISTANCE TO THE HOMELESS:** Homeless individuals must be given assistance in obtaining:

- a. Appropriate supportive services, including permanent housing, medical, mental health treatment, counseling supervision, and other services essential for achieving independent living; and
- b. Other Federal, State, local and private assistance available for such individuals.

Subgrantees are required to ensure that their clients meet the prescribed HUD definition of homelessness. Intake forms and client files will be reviewed during monitoring visits to ensure compliance with the definition.

9. **HOMELESS INVOLVEMENT:** Each subgrantee must submit a policy on homeless involvement to the OEO for approval considering the following:

(1) Each ESGP subgrantee must provide for the participation of homeless or formerly homeless individuals on its policy making entity in accordance with 42 U.S.C 11375 (d). Waivers of this requirement may be obtained for subgrantees unable to meet it if the subgrantee agrees to otherwise consult with homeless or formerly homeless individuals in considering and making policy decisions.

(2) Each ESGP subgrantee must involve homeless individuals and families in providing work or services pertaining to facilities or ESGP-funded activities in accordance with 42 U.S.C 11375(c)(7). To the maximum extent practicable, subgrantees will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with ESGP, in providing ESGP-funded services, and in providing services to occupants of ESGP-funded facilities.

10. **TERMINATION OF ASSISTANCE:** Subgrantees may, in accordance with 42 U.S.C. 11375 (e), terminate assistance provided by ESGP-funded activities to participants who violate program requirements. The termination, however, must allow for the due process of the terminated participant's rights. Each subgrantee is required to establish a formal process that governs the termination of assistance to a client and grievance process.

Furthermore, it must be evidenced that these processes are effectively communicated to ESGP participants in client files. The Subgrantee must submit a policy on termination of assistance to the Grantee for approval.

11. NONDISCRIMINATION AND EQUAL OPPORTUNITY: All recipients of Emergency Shelter Grant funds must comply with:

- the requirements of Title VIII of the Civil Rights Act of 1968, 42 USC 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations in 24 CFR Part 107; Executive Order 13279, and Title VI of Civil Rights Act of 1964 (42 USC 2002d-1) and implementing regulations issued in 24 CFR Part 1;
 - the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 USC 6101-07) and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 USC 794);
 - the requirements of Executive Order 11246 and the regulations issued under the order in 41 CFR Section 60; and
 - the requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 USC 1701U (See 570-607(b) of this Chapter); and
- a. In carrying out the program, the Subgrantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Subgrantee must take affirmative action to insure that applicants for employment are employed, without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms or compensation; and selection for training, including apprenticeship. The Subgrantee shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this nondiscrimination clause. The Subgrantee shall state that all qualified applicants receive consideration for employment without regard to race, color, religion, sex or national origin. The Subgrantee shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for the project or program.
 - b. The Subgrantee will, in all solicitations or advertisements for employees, state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - c. The Subgrantee will send to each labor union or representative of workers with which it has collective bargaining agreements or other contracts or understandings, a notice to be provided by the State advising the said labor union or worker's representatives of the Subgrantee's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The Subgrantee will comply with all provisions of Executive Order 11246 as amended, and of the rules, regulations and relevant orders of the State.
 - e. The Subgrantee will furnish all information and reports required by Executive Order 11246 as amended, and by rules, regulations and orders of the State, or pursuant thereto, and will permit access to its books, records, and accounts by HUD and the State for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - f. In the event of Subgrantee non-compliance with the non-discrimination clauses of this Grant or with any of such rules, regulations, or orders, this grant may be canceled, terminated or suspended in whole or in part, and the Subgrantee may be declared ineligible for further government grants or federally assisted construction contract

procedures authorized in Executive Order 11246 as amended, or by rules, regulations, or order of the State, or as otherwise provided by law.

- g. The Subgrantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraph (1) through (7) in every subgrant or purchase order unless exempted by rules, regulations, or orders of the State issued pursuant to Section 204 of Executive Order 11246 as amended, so that such provisions will be binding upon each subsubgrantee or vendor. The Subgrantee will take such action with respect to any subgrant or purchase order as the State may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a Subgrantee becomes involved in, or is threatened with, litigation with a subsubgrantee or vendor as a result of such direction by the State, the Subgrantee may request the State to enter into such litigation to protect the interest of the State.

The Subgrantee further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work provided that, if the Subgrantee so participating is a local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Grant.

12. AMERICAN WITH DISABILITIES ACT OF 1990 (ADA): The Subgrantee shall comply with the Disabilities Act of 1990 (ADA), as applicable.

SECTION 504 OF THE REHABILITATION ACT OF 1973 (HANDICAPPED): All recipients of federal funds must comply with Section 504 of the Rehabilitation Act of 1973 (The Act). Therefore, the federal funds recipient pursuant to the requirements of the Act hereby gives assurance that no otherwise qualified handicapped person shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits of or be subject to discrimination, including discrimination in employment, in any program or activity that receives or benefits from federal financial assistance. The recipient agrees it will ensure that requirements of the Act shall be included in the agreements with and be binding on all of its subsubgrantees, contractors, subcontractors, assignees or successors.

13. USE OF MINORITY AND WOMEN BUSINESS ENTERPRISES: The Subgrantee agrees to ensure that minority and women business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of grants and subgrants financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or subgrantees shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority and women business enterprises have the maximum opportunity to compete for and perform grants. Recipients and their subgrantees shall not discriminate on the basis of race, color, national origin or sex in the award and performance of HUD-assisted grants.

The requirements of Executive Order 11625, 12432, and 12138 give HUD the responsibility to ensure the Subgrantee makes efforts consistent with HUD's responsibilities under these Orders; the Subgrantee must make efforts to encourage the use of minority and women business enterprises in connection with activities funded under this part. **Subgrantees will complete and submit a Minority Business Enterprise Utilization Report covering the period of October 1, 2006 through September 31, 2007 to OEO by November 1, 2007 whereby ESG funds were utilized to pay minority-owned vendors.**

14. APPLICABILITY OF OMB CIRCULARS AND FINANCIAL MANAGEMENT: The policies, guidelines, and requirements of the Office of Management and Budget (OMB) Circulars Numbers A-87 (Cost Principles Applicable to Grants and Contracts with State and Local

Governments) and A-102 (Uniform Requirements for Assistance to State and Local Governments) (Common Rule), apply as they relate to the acceptance and use of Emergency Shelter Grant amounts by the State and units of local governments and Numbers A-110 and A-122 as they relate to the acceptance and use of Emergency Shelter Grant amounts by private nonprofit organizations apply.

15. **AUDIT:** The financial management system used by the Grantee or unit of local government that is a Subgrantee or State recipient shall provide for audits in accordance with 24 CFR Part 44. The Subgrantee, if a unit of local government, must comply with the audit requirements of OMB Circular A-133. The Subgrantee must make available to the State and Federal government, or its representative, all records related to matters and activities covered by this grant for the purposes of audit and inspection. The Subgrantee, if a nonprofit organization, must comply with the audit requirement of OMB Circular A-110 and A-133. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in 24 CFR part 45.

Subgrantees shall submit documentation indicating fiscal year periods within sixty (60) days of the beginning of the grant period. Subgrantees that expend \$500,000 or more in a year of federal funds shall have a single or program-specific audit for that year. Upon expenditure of at least \$500,000 in federal funds within the agency's fiscal year, subgrantees will submit documentation notifying OEO that the single audit condition has been met. Along with this notification, the subgrantee shall submit a plan to procure the required audit or an explanation and evidence of a pre-existing contractual agreement with an audit firm or certified public accountant. This notification shall also include the cost proposed to be charged to ESGP and specify that a schedule of ESGP funding will be obtained. (Cost must have been included in subgrantee's approved budget or be accompanied by a budget revision request if within the allowed timeframe.)

Subsequently, all subgrantees required under Federal law to have a single independent audit shall submit a copy of the certified independent audit report within nine (9) months after the agency's fiscal year-end. Audits must be conducted in compliance with federal and state requirements and Government Auditing Standards established by the Comptroller General of the United States and Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants (AICPA). Submission of the report shall include:

- a. Two (2) copies of the Independent Audit Report that includes an ESGP specific schedule, one bound and one unbound.
- b. Any management letter resulting from the audit.
- c. Information that may be pertinent to the grant.

Entities that expend less than \$500,000 are exempt from federal requirements for that year, but records must be available for review by appropriate officials of the federal agency and/or the pass-through entity, the State of South Carolina.

16. **TERMS AND CONDITIONS:** The Grantee reserves the right to add or delete terms and conditions of this Agreement as may be required by revisions and additions in the requirements, regulations, and laws governing the State's Emergency Shelter Grants Program.

Personnel: The Subgrantee agrees to secure personnel required to perform the services under this Grant. For this purpose, the Subgrantee Budget will indicate the name and position of such personnel necessary to attain the objectives of the programs contained in the Subgrantee grant application. Additionally, a position description shall be submitted with the subgrantee's budget for all positions paid either in full or in part. Such personnel shall not be employees of or have any contractual relationship with the Grantee. Subgrantees should employ individuals who can provide the leadership and administrative direction for the organization to best serve the recipients. Personnel engaged by the Subgrantee to perform

services under this Grant shall be employed in accordance with Federal, State and local laws concerning employment.

17. **SANCTIONS:** If the Subgrantee fails or refuses to comply with the Terms and Conditions and Special Provisions, herein set forth, the Grantee may take any or all of the following actions: cancel, terminate, or suspend, in whole or in part, the grant award agreement or refrain from extending any further assistance to the Subgrantee until such time as the Subgrantee is in full compliance.
18. **AMENDMENTS:** Any changes to this Grant affecting the scope of the work of the project must be submitted, in writing, by the Subgrantee and approved by the Grantee and shall be incorporated in written amendments to this Grant Agreement.
19. **RESPONSIBILITY FOR GRANT ADMINISTRATION:** The unit of local government or private nonprofit organization receiving this Emergency Shelter Grant is responsible for its proper administration, in compliance with all existing State and Federal regulations. Where units of local government or private nonprofit organizations distribute its Emergency Shelter Grants to eligible nonprofit agencies, the unit of local government is responsible for ensuring that its respective recipient carries out its ESG program in compliance with all requirements that apply to its program.
20. **REPORTING REQUIREMENTS:** The Subgrantee agrees to complete and submit all reports, in such form and according to such schedule, as may be required by the Grantee. **Final Requests for Reimbursement shall be required within 15 days after completion of the grant period. No Reimbursement Request will be processed for payment after the 15 days.** The final Program Accomplishment Report (ESG Form 10) shall be accompanied by a Property Inventory of items purchased using ESGP funds.

Each State subgrantee will be provided a Program Accomplishments Form (ESGP Form 10). The subgrantee shall submit a completed Accomplishments Form 10 twice during PY 2007 as outlined below:
 - **April 7, 2008**—report should reflect cumulative, unduplicated data from April 1, 2007 thru March 31, 2008
 - **June 30, 2008**—report should reflect cumulative, unduplicated data from July 1, 2007 thru June 15, 2008, and should be submitted with the final Request for Reimbursement.
21. **FINANCIAL MANAGEMENT:** By accepting this Grant, the Subgrantee certifies it has the legal authority to apply for the Grant and the managerial and financial capability to ensure proper accountability, planning, management and completion of the program elements described in the Grant Agreement. Subgrantee agrees to adhere to fiscal controls and accounting procedures that have been or will be established by the Grantee as may be necessary to assure proper accountability under this Grant. Failure by the Subgrantee to comply with these requirements shall lead to enforcement action, that can result in suspension and/or termination of this Grant.
22. **PROJECT COMPLETION:** Projects must be completed June 15, 2008. Services shall be undertaken to assure completion in accordance with timelines as stipulated in the grant application and as approved by the Grantee. Funding allocated for homeless prevention activities must be expended within 180 days of the date on which the State made the funds available to the Subgrantee. **Future funding may be contingent upon timely completion of the project.**

23. **GRANT PERIOD:** The Grant period for the Emergency Shelter Grants Program is effective from the date of the Grant award, but not past June 15, 2008. **The Emergency Shelter Grants Program's grant period will not be extended beyond June 15, 2008.**
24. **BUDGET CHANGES:** Any changes in the grant budget of the ESG funds must be submitted in writing by the Subgrantee and approved in writing by the Grantee prior to expenditure. **All budget revisions must be submitted thirty (30) days prior to the close of the grant period.**
25. **RELEASE OF FUNDS:** The Subgrantee may not obligate or expend ESG funds on any project activities until the Grantee has approved the Subgrantee's request for release of funds and related certifications. Funds obligated or expended prior to the approval shall be considered ineligible program costs and shall be paid by the Subgrantee.
26. **PROCUREMENT:** Subgrantees are required to adhere to the OEO Technical Assistance Memorandum 02-01 and to any program requirement contained in the applicable grant agreement. Procured items must be received within the grant period. Where units of local government distribute its Emergency Shelter Grants to eligible nonprofit agencies, the unit of local government is responsible for ensuring that its respective recipient carries out its ESG program in compliance with all requirements that apply to its program.
27. **INELIGIBLE COSTS:** Funds obligated or expended prior to signing the grant award letter or for activities which have not received prior approval from the Grantee shall be considered ineligible costs. Such expenditures are not eligible for payment with ESG funds.
28. **ELIGIBLE ACTIVITIES:** The ESG amount may only be used for the scope of work outlined in the approved Grant Application. The following conditions and/or limitations apply to eligible activities (see 24 CFR 576.21):
- a. Provision of essential social services, including (but not limited to) services concerned with employment, physical and mental health, client assistance payments for the specific purpose of assisting in establishing a household, for clients in the shelter, substance abuse, or education, including the staff salary necessary to provide such services. Salaries charged must be for ESG activities only. Subgrantees must provide staff name, title, and position descriptions for any salary or partial salary charged to this grant category. The grant amount provided to a nonprofit organization or a unit of general local government may be used to provide an essential service only if:
 1. The service is a new service or a quantifiable increase in the level of service above the unit of local government provided during the 12 calendar months immediately before it received the Grant amounts; and
 2. Not more than 30 percent of the Grant amount is used for these services. Financial assistance payments under essential services are allowed on behalf of homeless individuals only.
 - b. Payment of maintenance, operations, rent, insurance, utilities, repairs, security, fuel, furnishings and equipment. (Purchases of equipment must be justified as a needed requirement of the emergency shelter's continued operations. Equipment purchased with ESG funds become the property of the State of South Carolina. The OEO must approve of any intent to resell or dispose of the equipment purchased with ESG funds).
 - c. Homeless prevention activities such as short-term subsidies of rent and utilities, security deposits or first month's rent, legal representation to indigent tenants in eviction proceedings, etc. The amount a Subgrantee chooses to expend in the provision of homeless prevention must not exceed 30 percent of the Grant amount. The requirements

of 24 CFR 576.21(a)(4) dictate that: (A) the inability of the family to make the required payments must be the result of a sudden reduction in income; (B) the assistance must be necessary to avoid eviction of the family or termination of the services to the family; (C) there must be a reasonable prospect that the family will be able to resume payment within a reasonable period of time; and (D) the assistance must not supplant funding for preexisting homeless prevention activities from any other source. ESGP funds used for homeless prevention must be expended within 180 days of the date on which the State made the funds available. Financial assistance payments under preventive services are allowed only for non-homeless individuals.

- d. ESG funds may be used for staffing costs, however; these costs must not exceed 10 percent of the Grant and must be budgeted in the operational category.

29. INELIGIBLE ACTIVITIES: ESG funds may not be used for activities other than those authorized under Paragraph 27 of this Grant Agreement. For example, grant funds may not be used for:

- a. Acquisition of an emergency shelter facility for the homeless; or
- b. Rehabilitation services, such as preparation of work specifications, loan processing, or inspections;
- c. Conferences or training in professional fields such as accounting and financial management;
- d. Salary of subgrantee's executive director (except to the extent directly involved in carrying out eligible activities).

Grant funds may not be used to renovate, rehabilitate, or convert buildings owned by primarily religious organizations or entities, except in the cases outlined in the 24 CFR Part 576.22(2). In addition, ESG funds may not be used to provide essential services or operational costs for shelters for the homeless where these services are provided in a pervasively sectarian manner.

30. PROGRAM INCOME: Any program income generated as a result of an Emergency Shelter Grant must be handled in accordance with the Federal regulations for the Community Development Block Grant (CDBG) program.

31. USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS: The Subgrantee must adhere to the provisions of 24 CFR, Part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension or placement in ineligibility status. (See Debarment-Suspension Certification)

The Subgrantee must comply with Federal Debarment and Suspension regulations by requiring completion of "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" by subrecipients prior to entering into a financial agreement with the subrecipient for any transaction as outlined below:

- a. Any procurement contract for goods and services, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold of \$25,000.
- b. Any procurement contract for goods and services, regardless of amount, under which the subrecipient will have a critical influence on, or substantive control over the transaction.

The Subgrantee is responsible for monitoring the submission and maintenance of the official document.

32. CONFLICT OF INTEREST: In addition to conflict of interest requirements in OMB Circulars A-102 and A-110, no person who is an employee, agent, consultant, officer, or elected or appointed official of the Subgrantee, State recipient, or nonprofit recipient (or any designated public agency) that receives ESG funds and who exercises, or has exercised, any functions or responsibilities with respect to assisted activities or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a person or financial interest of benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, to the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The U. S. Department of Housing and Urban Development (HUD) may grant an exception to this exclusion as provided in 24 CFR Part 570.611 (d) and (e).

No elected or appointed State or Federal official shall be admitted to any share or part of this agreement, or to any benefit to arise from the same.

33. SUBGRANTEE OBLIGATIONS IN THIRD PARTY RELATIONSHIPS: With respect to certain third party relationships, the Subgrantee shall remain fully obligated under the provisions of this Grant award and agreement, notwithstanding its designation of any third party or parties for the undertaking of all or any part of the program with respect to which assistance is being provided hereunder to the Subgrantee. Any Subgrantee which is not the Grant application, shall comply with all lawful requirements of the applicant necessary to insure the program, with respect to which assistance is being provided, under this Grant award and agreement, is carried out in accordance with the applicant's Assurances and Certifications, including those with respect to the assumption of environmental responsibilities of the applicant under Section 104(h) of the Housing and Community Development Act of 1981.

34. APPLICABLE LAW: This Grant Award is made pursuant to Public Law 99-500, in accordance with the regulations contained in 24 CFR Part 576. It is also made under and shall be construed in accordance with the laws of the State of South Carolina. By executing this Grant, the Subgrantee also agrees to submit to the jurisdiction of the courts of the State of South Carolina for all matters arising or to arise hereunder, including but not limited to, performance of said Grant and the payment of all licenses and taxes of whatever kind or nature applicable hereto.

35. FEDERAL LABOR STANDARDS PROVISIONS: Except with respect to the rehabilitation of residential property designed for residential use for less than eight families, the Subgrantee and all contractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance pertaining to such contracts and the applicable requirements of the regulations of the State, governing the payment of wages and the ratio of apprentices and trainees to journeymen, provided that if wage rates higher than those required under such regulations are imposed by the State or local law, nothing hereunder is intended to relieve the Subgrantee of its obligation if any, to require payment of the higher rates.

No award of the contracts covered under this section of the Grant Agreement shall be made to any contractor who is at the time ineligible under the provisions of any applicable regulations of the State or the Federal Government to receive an award of such contract.

36. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION: The assistance provided under this agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining State approval of the application for such assistance, or State approval of applications for additional assistance, or any other approval or concurrence of the State required under this agreement, or HUD regulations with respect thereto provided,

however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

37. **COPYRIGHT:** Except as otherwise provided in the Terms and Conditions of this Grant, the Subgrantee, or contractor is free to copyright any books, publications or other materials developed in the course of this Grant. However, the Federal awarding agency and State Funding Agency (SFA) reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal government and SFA purposes:
- (a) the copyright in any work developed under this Grant or through a contract under this Grant; and
 - (b) any rights of copyright to which a subgrantee or subcontractor purchases ownership with Grant support.

The Federal government's rights and the SFA's rights identified above must be conveyed to the publisher and the language of the publisher's release form must ensure the preservation of these rights.

38. **OWNERSHIP:** Title to property acquired in whole or in part with grant funds shall be vested in the Subgrantee, subject to divestment by the Office of Economic Opportunity, where its use for the project or other State approved activities is discontinued. Subgrantees should exercise caution in the use, maintenance, protection, and preservation of such property, during the period of project use. The Subgrantee must file with the OEO a copy of the Property Control Inventory form (obtained from the OEO) at the time of project close-out and must agree to be subject to audit by the OEO or its duly authorized representatives for verification of the information contained in the Property Inventory Control form. A physical inventory must be conducted every year.
39. **CONFIDENTIAL INFORMATION:** Any reports, information, data, etc., given to, prepared or assembled by the Subgrantee, under this Grant which the Subgrantee requests to be kept confidential, shall not be made available to any individual or organization by the Grantee without the prior written approval of the Subgrantee.
40. **ACCESS:** Records with respect to all matters covered by this Grant shall be made available for programmatic monitoring or fiscal audit and inspection by the Grantee and/or their representatives.
41. **RECORD RETENTION:** All pertinent grant records including financial, programmatic, supporting documents, statistical and non-expendable property records must be retained for three (3) years after the Subgrantee submits its financial expenditure report to the Grantee. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
42. **SUBGRANTEE RESPONSIBILITIES:** The Subgrantee is required to assume sole responsibility for the complete effort and enforcement of laws and regulations under this Grant. The Grantee will consider the Subgrantee to be the sole point of contact in regard to contractual matters.
43. **SUBCONTRACTING:** If any part of the work associated with this Grant and covered by the Grant is to be subcontracted, the Subgrantee shall identify the Subgrantee or organization/agency and make the contractual arrangements therewith. All subcontracts must

be approved by the Grantee to insure they are not debarred or suspended by the Federal or State governments.

44. SPECIAL CONDITIONS: Costs may not be incurred nor any grant funds disbursed until the Grantee has an approved budget, and has received and approved the agreement/grant between the Subgrantee (unit of local Government), and the Shelter to be assisted with ESG funds, «Agency__Shelter_Name».
45. METHOD OF PAYMENT: Payments under the Emergency Shelter Grants Program will follow a cost reimbursement procedure as prescribed by 24 CFR Part 576.83. That is, subgrantees shall be reimbursed only for costs that have been incurred and corroborated with paid invoices or other evidence of subgrantee expenditure or outlays. Requests for Reimbursement must include OEO forms as well as copies of the invoices and evidence of payment for the invoices for which reimbursement is being sought. Evidence of payment can include check copies and bank statements. **The general ledger is not considered evidence of payment and is only required for audit purposes.** Additionally, when bank statements are submitted as evidence of payment, there must be sufficient notation of which items are relevant to the request.

All Requests for Reimbursement must reflect a match expenditure from the subgrantee equal to or more than the Federal funds being requested.

Requests for Reimbursement should be submitted on a monthly basis.

Costs incurred prior to the beginning of the start-up date or after the ending date cannot be reimbursed by the grant. The Subgrantee is responsible for maintaining all financial records relating to program expenditures and general grant administration.

It is expressly understood and agreed that under no circumstances will the total grant amount be paid hereunder in excess of the maximum sum of \$«FinalAwardAmount» for all of the services required.

Final payment will be made upon submission by the Subgrantee and approval by the Grantee of a Program Accomplishment Report detailing the services performed under this Grant Agreement. No Request for Reimbursement will be processed for this grant, if received later than 15 days after the completion of the grant period.

46. LEGAL SERVICES: No attorney-at-law shall be engaged through use of any funds provided by this grant/contract in suits against the State, local public body or any political subdivision.

Attorney's fees are, however, an eligible cost where legal representation is retained in the interest of the homeless/at risk person in eviction proceedings.

47. POLITICAL ACTIVITY: The Subgrantee agrees that no funds shall be utilized, or services provided, or in the identification of such programs with (1) any partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; (2) an activity to provide voters and prospective voters with transportation to the polls or to provide similar assistance in connection with an election; (3) any voter registration activity, or (4) any political activities as set forth in the United States Code, Title 5, Chapter 15, Section 1502(a)(i)(2) and (3).
48. REPORTING OF FRAUDULENT ACTIVITY: If at any time during the term of this grant, anyone has reason to believe or suspect by whatever means that, under this or any other program administered by the OEO a recipient of funds has improperly or fraudulently applied for or received benefits, monies or services pursuant to this or any other contract/grant, such information shall be reported in confidence to the OEO.

49. ENVIRONMENTAL IMPACT: All applications to the State, and all agreements with nonprofit organizations and agencies providing assistance to the homeless, must contain an assurance that no renovation, major rehabilitation or conversion activity funded under the ESG program will:

- a. Involve adverse alterations to a property that is listed on the National Register of Historic Places, is located in an historic district or is immediately adjacent to a property that is listed on the Register or is deemed by the State Historic Preservation Office to be eligible for listing on the Register;
- b. Jeopardize the continued existence of an endangered or threatened species, as designated by the Department of the Interior (Fish and Wildlife Service) or the Department of Commerce (National Marine and Fisheries Service), or affect the critical habitat of such a species; and
- c. Be inconsistent with HUD environmental standards in 24 CFR 51 or with the State's Coastal Zone Management plan.

50. ENVIRONMENTAL REVIEW: Under the requirements of 24 CFR Part 576.52(a) and Section 104 (1) of Title I, Subgrantees are to assume responsibility for environmental review in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and related authorities in HUD's implementing regulations. Grant recipients must certify, prior to the commitment of ESG funds, that environmental review procedures under HUD and State regulations have been satisfied for each activity or group of activities proposed, unless the project is exempted by 24 CFR 58.34.

51. COMPLIANCE WITH AIR AND WATER ACTS: (Applicable to construction contracts and related subcontracts exceeding \$100,000).

This agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., and the regulations of the Environmental Protection Agency with respect thereto of 40 CFR Part 15, as amended from time to time.

In compliance with said regulations, the Subgrantee shall cause or require to be inserted in full in all grants and subgrants with respect to any non-exempt transaction thereunder funded with assistance provided under this agreement, the following requirements:

- a. A stipulation by the Grant or subgrant that any facility to be utilized in the performance of any nonexempt grant or subgrant is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- b. Agreement by the Subgrantee to comply with all the requirements of Section 114 of the Clean Air Act, as amended (33 USC 1318) relating to inspection, monitoring, entry reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- c. A stipulation that as a condition of award of the Grant, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the Grant under consideration to be listed on the EPA List of Violating Facilities;
- d. Agreement by the Subgrantee that it will include or cause to be included the criteria and requirements in Paragraphs (A) through (D) of this section, in every nonexempt subgrant and requiring that the Subgrantee will take such action as the Grantee may direct as a means of enforcing such provisions.

In no event shall any amount of assistance provided under this agreement be utilized with respect to a facility which has given rise to conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

52. UNIFORM FEDERAL ACCESSIBILITY STANDARDS: For major rehabilitation or conversion, the Uniform Federal Accessibility Standards at 24 CFR Part 40, Appendix A apply.
53. LEAD BASED PAINT: The requirements, as applicable, of the Lead Based Paint Poisoning Prevention Act (42 USC 4821-4846) and implementing regulations at 24 CFR Part 35 apply.
54. FLOOD INSURANCE: No site proposed on which renovation, major rehabilitation or conversion of a building is to be assisted under this part, other than by Grant funds allocated to the State, may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the community in which the area is situated is participating in the national flood insurance program and the regulations thereunder (44 CFR Parts 59 - 79) or less than a year has passed since FEMA notification regarding such hazards, and the Subgrantee will ensure that flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973 (42 USC 40001 et seq.).
55. DISCLOSURE OF FEDERAL PARTICIPATION: In compliance with Section 623 of Public Law 102-141, the subsubgrantee agrees that no amount of this award shall be used to finance the acquisition of goods and services (including construction services) for the Project unless the Subgrantee:
 - a. specifies in any announcement of the awarding of the contract/grant for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and
 - b. expresses the amount announced pursuant to Paragraph (a) as a percentage of the total cost of the planned acquisition.

The above requirements only apply to a procurement for goods or services (including construction services) that has an aggregate value of \$500,000 or more.
56. DRUG-FREE WORKPLACE The Subgrantee shall establish and implement policies, procedures and programs in accordance with the Certification Regarding Drug-Free Workplace Requirements as set forth in the grant application. Subgrantee shall establish a drug-free workplace program to inform employees about the dangers of drug abuse in the workplace; the Subgrantee's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance program; and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
57. INFORMATION RELATED TO ILLEGAL ACTS OR CRIMINAL ACTIVITY: The Subgrantee shall furnish the Grantee information about all illegal acts/criminal activity discovered. Any attempt to conceal the illegal act/criminal activity, withholding information from the Grantee or otherwise obstructing justice will be cause for enforcement action which may result in suspension or termination of this Grant Agreement.
58. INVESTIGATIONS: The Subgrantee will permit and cooperate with any Federal investigation undertaken by the Secretary, Comptroller General, or any State investigation to determine compliance with the provisions of this Grant. The Subgrantee will make available any books, documents, papers and records to any authorized representatives for examination, copying or mechanical reproduction on or off the premises of the Subgrantee, based upon a reasonable request.

59. LOBBYING AND DISCLOSURE REQUIREMENTS: The Subgrantee will comply with the disclosure requirements and prohibitions of [42 U.S.C. 3537a](#) and 3545 and [31 U.S.C. 1352](#) (the Byrd Amendment), and the implementing regulations at parts 4 and 87 of this title.
60. NON-ASSIGNABILITY: No assignments of this Grant or of any rights hereunder by the Subgrantee shall be valid without the prior written consent of the Grantee.
61. SAFETY: The Grantee assumes no responsibility with respect to accident, illness, or claims arising out of any work undertaken with funds provided through this Grant. The Subgrantee is expected to take necessary steps to insure or protect itself and personnel. The Subgrantee will comply with all applicable local, State or Federal occupational and safety acts, rules and regulations.
62. CONFORMITY WITH LAW: The provisions of this grant and performance hereunder are subject to all applicable laws, regulations, ordinances and codes of Federal, State and local governments. If it appears that the terms hereof are in conflict with such, then the terms hereof, which conflict therewith, shall be deemed inoperative and null and void to the extent of the conflict and shall be deemed modified to conform therewith.
63. COMPLIANCE WITH PUBLIC LAW 103-227, PART C - ENVIRONMENTAL TOBACCO SMOKE, ALSO KNOWN AS THE PRO-CHILDREN ACT OF 1994: This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans, or loan guarantees and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.
64. COMPLIANCE WITH McKINNEY-VENTO ACT, 42 USC 11301. To the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons. ESG funds are not to be used to assist such persons in place of state and local resources.
65. ACCEPTANCE: By execution of this Grant Agreement, the Subgrantee agrees to carry out the emergency shelter and assistance project as outlined in the approved application, in accordance with all laws, regulations, and guidelines contained in the ESGP Handbook, OEO Memoranda, and this agreement.

**PART 40—ACCESSIBILITY STANDARDS FOR DESIGN, CONSTRUCTION, AND
ALTERATION OF PUBLICLY OWNED RESIDENTIAL STRUCTURES**

Sec.

[40.1](#) Purpose.

[40.2](#) Definition of “residential structure”.

[40.3](#) Applicability.

[40.4](#) Standards.

[40.5](#) [Reserved]

[40.6](#) Records.

[40.7](#) Availability of Accessibility Standards.

Authority:

[42 U.S.C. 3535\(d\)](#), 4153.

Source:

36 FR 24437, Dec. 22, 1971, unless otherwise noted.

§40.1 Purpose.

This part prescribes standards for the design, construction, and alteration of publicly owned residential structures to insure that physically handicapped persons will have ready access to, and use of, such structures.

§40.2 Definition of “residential structure”.

(a) As used in this part, the term *residential structure* means a residential structure (other than a privately owned residential structure and a residential structure on a military reservation):

(1) Constructed or altered by or on behalf of the United States;

(2) Leased in whole or in part by the United States after August 12, 1968, if constructed or altered in accordance with plans and specifications of the United States; or

(3) Financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if such residential structure is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan.

(b) As used in this part, *residential structure* includes the following:

(1) Any residential structure which, in whole or in part, is intended for occupancy by the physically handicapped or designed for occupancy by the elderly;

(2) All elevator residential structures;

(3) Any residential structure that contains 15 or more housing units, unless otherwise specifically prescribed by the Uniform Federal Accessibility Standards contained in appendix A to this part.

(4) Nonresidential structures appurtenant to a residential structure covered under this part.

[36 FR 24437, Dec. 22, 1971, as amended at 49 FR 31620, Aug. 7, 1984]

§40.3 Applicability.

(a) The standards prescribed in §40.4 are applicable to residential structures designed after the effective date of this part. If the design of a structure commenced prior to that date, the standards shall be made applicable to the maximum extent practicable, as determined by the head of the department, agency, or instrumentality of the United States concerned. If no design stage is involved in the construction or alteration of a residential structure, the standards of §40.4 shall be applicable to construction or alteration for which bids are solicited after the effective date of this part.

(b) The standards prescribed in §40.4 are not applicable to:

(1) Any portion of a residential structure or its grounds which need not, because of its intended use, be made accessible to, or usable by, the public or by physically handicapped persons;

(2) The alteration of an existing residential structure to the extent that the alteration does not involve work which is related to the standards of this part; or

(3) The alteration of an existing building, or of such portions thereof, to which application of the standards is not structurally feasible.

§40.4 Standards.

Residential structures subject to this part shall be designed, constructed or altered to ensure that physically handicapped persons have access to, and use of, these structures. This requirement is satisfied by using the specifications contained in appendix A to this part, the Uniform Federal Accessibility Standards (UFAS).

[49 FR 31621, Aug. 7, 1984]

§40.5 [Reserved]

§40.6 Records.

The administering agency's file on each contract, grant, or loan involving the design, construction, or alteration of a residential structure shall include appropriate documentation indicating: (a) That the standards prescribed in §40.4 are applicable to and have been or will be incorporated in the residential structure, or (b) that the grant or loan has been or will be made subject to the requirement that the standards are applicable and will be incorporated in the residential structure. The file should also indicate any modification or waiver of the standards which has been issued by the Secretary of HUD.

§40.7 Availability of Accessibility Standards.

Copies of the Uniform Federal Accessibility Standards are available from the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-5404 (this is not a toll-free number). Hearing or speech-impaired individuals may call HUD's TDD number (202) 708-0113 or 1-800-877-8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

[61 FR 5204, Feb. 9, 1996]




U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MAR 28 2006

MEMORANDUM FOR: Regional Environmental Officers
Field Environmental Officers

FROM: Richard H. Broun, Director, Office of Environment and
Energy, DGE 

SUBJECT: Guidance for categorizing an activity as maintenance for compliance
with HUD's environmental regulations, 24 CFR Parts 50 and 58

This memo clarifies the difference between maintenance and repair for compliance with HUD's environmental regulations, 24 CFR Parts 50 and 58, and expands upon the May 5, 1989 policy memorandum—Policy: Flood Insurance Requirements Not Applicable to Building Maintenance. In that memo, HUD determined that national flood insurance requirements do not apply to HUD financial assistance used for “routine maintenance” of buildings located within Special Flood Hazard Areas.

Environmental reviews for repair activities are more extensive, requiring compliance with related federal environmental laws in §50.4 and §58.5, including the National Historic Preservation Act of 1966. In contrast, maintenance activities do not require compliance with federal environmental laws. (See 24 CFR 50.19(b)(13) and 58.35(b)(3)). Distinguishing between maintenance and repair activities requires careful examination. Unless the activity meets the definition of maintenance provided below, the activity should be considered a repair or improvement, and the environmental review will require compliance with the related federal environmental laws at §50.4 or §58.5. Unlike repair and improvements, maintenance activities do not materially add to the value of the building, appreciably prolong its useful life, or adapt it to new uses.

Definition-- Maintenance activities are:

- (1) cleaning activities;
- (2) protective or preventative measures to keep a building, its systems, and its grounds in working order; or
- (3) replacement of appliances or objects that are not fixtures or part of the building. A fixture is an object that is physically attached to the building and cannot be removed without damage to the building, and includes systems designed for occupant comfort and safety such as HVAC, electrical or mechanical systems, sanitation, fire suppression, and plumbing. Fixtures also include, but are not limited to, kitchen cabinets, built-in shelves, toilets, light fixtures, staircases, crown molding, sinks, and bathtubs.

However, if items that would otherwise be considered maintenance are done as part of an extensive remodeling or renovation of a building, the entire job is considered a repair or improvement. Also, deferred maintenance and non-routine maintenance do not meet this definition of maintenance.

Items not meeting the definition of maintenance can be excluded from historic preservation review through a Memorandum of Agreement or Programmatic Agreement per 36 CFR Part 800.

For examples of some common maintenance activities, please see Attachment. If you have any questions, please have your Regional Environmental Officer contact Danielle Schopp at Danielle_L._Schopp@hud.gov / (202) 708-0614, extension 4442 or David Blick at David_G._Blick@hud.gov / (202) 708-0614, extension 5718.

Attachments

Attachment: Examples of Maintenance Activities

Cleaning Activities	Protective Measures	Replacing existing appliances or objects that are not fixtures or part of the building
- cleaning gutters and down spouts	- fixing gutters or floors	- kitchen appliances that are not attached to the building, where removal would not cause any damage (stoves, refrigerators)
- cleaning floors	- mending cracked plaster	- light bulbs
- lawn care (litter pickup, mowing, raking)	- fixing broken windowpane(s), or door locks	- carpeting or vinyl flooring
- cleaning interior or exterior of building*	- fix roofing or plumbing leaks	- washing and dryer machines
- washing windows	- caulking, weather stripping, re-glazing	- air filters
- trash collection	- reapplication of protective coatings	- HVAC window unit
- trim trees and shrubs	- installation of protective plywood, alarm systems, or temporary fencing	
- snow/ice removal	- repainting previously painted surface (including limited scraping)*	
- unclog sink and toilet	- waterproofing (sealant)	
- neighborhood cleanup	- servicing and maintenance of mechanical systems	

*Non-destructive methods only (e.g., no sandblasting or high pressure spraying).



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MAY - 5 1989

MEMORANDUM FOR: Regional Administrators
Attention: Regional Environmental Officers
FROM: *Audrey E. Scott*
Audrey E. Scott, General Deputy Assistant Secretary for
Community Planning and Development, CD

SUBJECT: Policy: Flood Insurance Requirements Not Applicable to
Building Maintenance

The Department has determined that National flood insurance requirements do not apply to HUD financial assistance used for the "routine maintenance" of buildings located within Special Flood Hazard Areas (SFHA). "Routine maintenance" falls below the threshold of building rehabilitation and is unlike building "repair" or "improvement", which are statutory terms used in the definition of "financial assistance for acquisition or construction purposes" in Section 3(a)(4) of the Flood Disaster Protection Act and therefore trigger the requirement to comply with Section 102(a) and 202(a) of the Act.

"Routine maintenance" activities should be carefully distinguished from "repair" or "improvement" of any SFHA building. "Routine maintenance" merely keeps a building in good order and an ordinary, efficient operating condition. It does not materially add to the value of a structure, appreciably prolong its useful life, or adapt it to new uses, whereas "repairs" or "improvements" might do so. Some examples of building maintenance are: (1) painting either the exterior or interior of a building, (2) fixing gutters or floors, (3) mending leaks or plastering, and (4) replacing thermostats, broken windowpanes or door locks. In contrast, adding a room, putting in a new system of plumbing or electrical wiring or air conditioning, installing a new roof, replacing a boiler, or fixing of damages sustained by a building from flooding or other hazards are considered to be "repairs" or "improvements". However, if items that would otherwise be considered "routine maintenance" are done as part of an extensive remodeling or renovation of a building, the entire job is considered "a repair" or "an improvement".

Of course, owners of SFHA buildings should be advised that the purchase of flood insurance on a voluntary basis is always prudent as it protects their own equity in such buildings from potential financial loss due to flooding damage. The National Flood Insurance Program is designed to provide a cost effective alternative to Federal disaster assistance used to meet the escalating costs of repairing damage caused by floods.

Please inform appropriate Regional Program Directors and Field Office Managers of this policy. If you have any questions or wish to report your experience on this matter, please have your Regional Environmental Officer contact Richard H. Broun, Director, Office of Environment and Energy, or his staff specialist, Walter Prybyla, (Room 7158) FTS 755-6610.